

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment)	DOCKET TS-150965
Against)	
)	ORDER 01
SAN JUAN EXPRESS, INC.)	
)	ORDER GRANTING
in the amount of \$1,000)	MITIGATION TO \$250
.....)	

BACKGROUND

- 1 Washington law requires commercial ferry companies to file annual reports and pay regulatory fees by May 1 of each year. WAC 480-51-100. On February 27, 2015, the Washington Utilities and Transportation Commission (Commission) mailed annual report and regulatory fee packets to all regulated commercial ferry companies. The forms included a reminder that companies must file their annual reports and pay their regulatory fees by May 1, 2015, or face penalties of \$100 for each violation of Commission rules. In the case of continuing violations, each day’s continuance is a separate violation. RCW 80.04.405.
- 2 San Juan Express, Inc. (San Juan Express or Company) did not file its annual report on May 1, 2015, and had not made that filing by May 15. On May 21, the Commission assessed a penalty of \$1,000 against San Juan Express, calculated as \$100 per business day from May 1 to May 15.
- 3 On June 3, 2015, San Juan Express filed its annual report. That same day, the Company responded to the Commission’s penalty assessment, admitting the violations and requesting mitigation of the penalty based on the written information provided. The Company explained that its prior CFO resigned in April 2015, and did not prepare the annual report prior to resignation. The Company further stated that the annual report has since been completed and submitted by its new CFO.
- 4 On June 10, 2015, Commission Staff (Staff) filed a response recommending the Commission mitigate the penalty to \$25 per day, or \$250. Staff noted that the Company has been active since 1991, and has no prior violations of WAC 480-51-100.

DISCUSSION

- 5 WAC 480-51-100 requires regulated commercial ferry companies to file annual reports and pay regulatory fees by May 1 of each year. Companies are responsible for complying with their legal obligations, and the Company should have ensured its annual report was timely filed, regardless of employee turnover.
- 6 The Commission nevertheless agrees with Staff's recommendation. The Commission may consider a number of factors when entertaining a request for mitigation, including a company's history of compliance, whether the violation was promptly corrected, and the likelihood the violation will recur.¹ This is San Juan Express's first violation of WAC 480-51-100, and the Company has since filed its annual report and paid its regulatory and late fees. In addition, the Company has been regulated since 1991; given its extensive history of compliance, the violation is not likely to recur. In light of these factors, the Commission will exercise its discretion to reduce the penalty to \$250.

ORDER

THE COMMISSION ORDERS:

- 7 (1) San Juan Express, Inc.'s request for mitigation of the \$1,000 penalty is GRANTED, in part, and the penalty is reduced to \$250.
- 8 (2) The penalty is due and payable no later than June 25, 2015.
- 9 The Secretary has been delegated authority to enter this order on behalf of the Commissioners under WAC 480-07-904(1)(h).

DATED at Olympia, Washington, and effective June 15, 2015.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

STEVEN V. KING
Executive Director and Secretary

¹ Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission (January 7, 2013).

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.