January 21, 2015

Steven V. King, Executive Director and Secretary

Washington Utilities and Transportation Commission

1300 S. Evergreen Park Dr. S.W.

P.O. Box 47250

Olympia, Washington 98504-7250

RE: *In the Matter of a Penalty Assessment against BREMERTON-KITSAP AIRPORTER, in the amount of $2,900*

 Docket TE-152319

Dear Mr. King:

This letter is in response to the December 31, 3015, letter from Richard Asche, President of Bremerton-Kitsap Airporter, Inc., in which he seeks mitigation of the $2,900 penalty assessment in Docket TE-152319. The Company’s letter requesting mitigation appears to offer three reasons in support of its position:

1. Only a single violation occurred rather than the 29 alleged by Commission Staff.
2. It is ridiculous to assess penalties for previous violations of Commission rules.
3. The Company has endured some difficult times with the recent deaths of its General Manager and another employee.

Commission Staff responds to each of the above points in turn.

1. On November 24, 2015, Commission Staff documented a Bremerton-Kitsap driver operating a passenger shuttle without a valid medical certificate. This is the violation the Company presumably acknowledges in its request for mitigation. Commission Staff also visited Bremerton-Kitsap to conduct a further compliance review on December 2, 2015. During this December 2nd inspection, Staff discovered that the same Company driver had operated a passenger shuttle without a medical certificate on 29 prior occasions. Each occasion on which a driver operates a passenger shuttle without a valid medical certificate is a separate and distinct violation. Staff therefore documented 29 violations of 49 C.F.R. Part 391.45(b)(1).
2. Under RCW 81.04.405, each and every violation of a Commission law, order, rule, direction, or requirement is a separate and distinct offense. Each offense subjects the offender to a penalty up to $100 upon written notice from the Commission. Where a driver operates a vehicle 29 separate times without a valid medical certificate as required under the relevant laws and rules, the operating company has committed 29 separate violations. With 29 separate and distinct violations of laws and regulations, the Company is subject to 29 separate penalties, each carrying a fine of up to $100 in this instance. The imposition of such penalties is consistent with extensive Commission precedent.
3. Staff is not aware of and cannot speak to the Company’s staffing or any personal tragedies affecting Bremerton-Kitsap’s management or employees. Staff thus cannot comment on how those events impacted Bremerton-Kitsap’s ability to keep accurate and adequate records or whether those events merit mitigation of a penalty.

Attached for your reference is a copy of Mathew Perkinson’s Motor Carrier Safety Assignment Report.

Sincerely,

BRETT P. SHEARER

Assistant Attorney General

Enclosure

BPS:klg

cc: David Pratt, Assistant Director, Transportation Safety

 Richard Asche, President, Bremerton-Kitsap Airporter