

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment
Against

EXPLORATION COACH LINES, LLC

in the amount of \$1,000

DOCKET TE-160697

ORDER 01

ORDER DENYING REQUEST FOR
HEARING; DENYING CONTEST OF
VIOLATIONS; GRANTING MITIGATION
TO \$250

BACKGROUND

- 1 On February 29, 2016, the Washington Utilities and Transportation Commission (Commission) mailed annual report and regulatory fee forms to all charter and excursion carriers. The forms included a reminder that companies must file their annual reports and pay their regulatory fees by Monday, May 2, 2016, 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 Exploration Coach Lines, LLC (Exploration Coach Lines or Company) did not file its annual report on May 2, 2016, and had not made that filing by May 16. On June 21, the Commission assessed a penalty of \$1,000 against Exploration Coach Lines, calculated as \$100 per business day from May 2 to May 16.
- 3 On August 5, 2016, Exploration Coach Lines filed a complete annual report and paid the required regulatory fee. On August 9, Exploration Coach Lines responded to the Commission's penalty assessment, requesting a hearing and contesting the violations. In its request, the Company stated, "the Company now operates as an interstate motor carrier of passengers under authority issued by the USDOT, FMCSA under MC-953972, and thus is no longer subject to the Commission's jurisdiction."
- 4 On August 10, 2016, Commission staff (Staff) filed a response recommending a penalty reduction to \$25 per day, or \$250, because the Company became regulated in 2014 and has no prior violations of WAC 480-30-071. Staff noted that unless and until Exploration Coach Lines voluntarily cancels its intrastate operating authority, it is subject to the Commission's annual reporting requirements.

DISCUSSION

5 WAC 480-30-071 requires charter and excursion carriers to file annual reports and pay regulatory fees by May 1 of each year, or the first business day thereafter. Companies are responsible for complying with their legal obligations, and the Company should have ensured its annual report was filed by the deadline.

6 As a preliminary matter, we deny the Company's request for a hearing. The Commission's penalty assessment advised the Company that a request for hearing will only be granted if material issues of law or fact require consideration of evidence and resolution in hearing. Here, no issues of law or fact are in dispute. Commission records show that the Company's annual report was not received until August 5, 2016. Moreover, as long as Company remains certificated by the Commission, it must comply with the Commission's annual reporting requirements. The facts, therefore, are undisputed, and the law is clear. Accordingly, the Company's request for a hearing is denied.

7 The Commission also denies the Company's contest of the violations. The undisputed facts demonstrate that the Commission received the Company's annual report on August 5, 2016, long after the May 2, 2016, deadline. The Company has thus violated the law.

8 We will, however, construe the Company's submission as a request for mitigation and assess a reduced penalty. The Commission may consider a number of factors when entertaining a request for mitigation, including whether the violation was promptly corrected, a company's history of compliance, and the likelihood the violation will recur.¹ Here, Exploration Coach Lines has corrected the violations by filing its annual report and paying its regulatory fee. In addition, this is the Company's first violation of WAC 480-30-071 since it became regulated in 2014. Although the Company has a relatively brief history of compliance, we have routinely granted mitigation for first-time violations. In light of these factors, the Commission will exercise its discretion to reduce the penalty to \$250.

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

ORDER

THE COMMISSION ORDERS:

- 9 (1) Exploration Coach Lines, LLC's request for a hearing is DENIED.
- 10 (2) Exploration Coach Lines, LLC's contest of the violations is DENIED.
- 11 (3) Exploration Coach Lines, LLC's request for mitigation is GRANTED, in part, and the penalty is reduced to \$250.
- 12 (4) The \$250 penalty is due and payable no later than August 26, 2016.
- 13 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 August 12, 2016.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

STEVEN V. KING
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.