

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET TE-160706
KEZELE RENTALS, LLC	ORDER 01
in the amount of \$1,000	ORDER DENYING REQUEST FOR HEARING; GRANTING MITIGATION TO \$100

**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 Kezele Rentals, LLC (Kezele or Company) did not file an 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 Kezele, calculated as \$100 per business day from May 2 to May 16.
- 3 On July 1, 2016, Kezele responded to the Commission's penalty assessment, requesting a hearing and contesting the violations. In its request, Kezele states, "I received the violation statement in the mail on June 26, 2016. I immediately contacted UTC Sean Bennett explaining that my annual report form and check payment was sent when requested in March 2016. I explained I have copies of the form and check that was sent along with a manager as witness to confirm this was completed and mailed in. I've provided a copy of the annual form along with my request for a hearing. This vehicle was used once as a donation/charity and once for a wedding, this charter was donated time by the owner. I will issue another \$25 check if my original was not processed and cancel the original check." That same day, the Company filed a complete annual report.
- 4 On July 18, 2016, Commission staff (Staff) filed a response recommending the Commission grant the Company's request for mitigation because the Company's vehicle was used only twice, and both trips were donated. In addition, this is the Company's first

year of operation, so it has no prior violations of WAC 480-30-071. Staff also noted that Kezele provided a copy of the annual report and check, dated March 15, 2016.

### **DISCUSSION**

5 WAC 480-30-071 requires charter and excursion carriers to file annual reports 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 report was received prior to 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 July 1, 2016. The facts, therefore, are undisputed, and the law is clear. Accordingly, the Company's request for a hearing is denied.

7 We will, however, construe the Company's submission as a request for mitigation. 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.<sup>1</sup> Here, Kezele has since corrected the violations at issue and presented evidence that it made a good faith effort to file its report prior to the deadline. In addition, Kezele only used its vehicle twice in 2015, and both trips were donated. While we do not agree with Staff's recommendation to waive the penalty entirely, we find that assessing a penalty for one violation of WAC 480-30-071 – rather than a “per violation” penalty – is appropriate in light of the circumstances presented. Accordingly, the Commission will exercise its discretion to assess a reduced penalty of \$100.

### **ORDER**

#### **THE COMMISSION ORDERS:**

8 (1) Kezele Rentals, LLC's request for a hearing is DENIED.

---

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

- 9 (2) Kezele Rentals, LLC's request for mitigation of the \$1,000 penalty is GRANTED, in part, and the penalty is reduced to \$100.
- 10 (3) The \$100 penalty is due and payable no later than August 24, 2016.
- 11 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 10, 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.**