



STATE OF WASHINGTON

UTILITIES AND TRANSPORTATION COMMISSION

1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250

(360) 664-1160 • TTY (360) 586-8203

August 7, 2017

Steven V. King, Executive Director and Secretary
Utilities and Transportation Commission
1300 S. Evergreen Park Dr. SW
P.O. Box 47250
Olympia, WA 98504-7250

RE: *Washington Utilities and Transportation Commission v. Ballard Terminal Railroad Company*

Commission Staff's Response to Application for Mitigation of Penalties TR-170553

Dear Mr. King:

On July 6, 2017, the Utilities and Transportation Commission issued a \$1,000 Penalty Assessment in Docket TR-170553 against Ballard Terminal Railroad Company for 10 violations of Washington Administrative Code (WAC 480-62-300), which requires rail companies to furnish annual reports and the regulatory fee to the commission no later than May 1 each year.

On July 20, 2017, Ballard Terminal Railroad Company wrote the commission requesting mitigation of penalties. In its mitigation request, Ballard Terminal Railroad Company does not dispute the violation occurred. The company states, "...we never received any paper returns to be prepared for 2016 nor any email notification. It appears you had an out of date email address (Byron Cole the previous General Manager) and thus we were not made aware of the ability to access the 2016 return template online. We have since filed the return and paid the applicable regulatory fee plus interest, and kindly ask that the penalty be reduced/abated. For a small business like ours, this fine is a financial burden."

It is the company's responsibility to ensure that the regulatory fee is paid and the annual report is filed by the May 1 deadline. On February 28, 2017, Annual Report packets were sent to all regulated rail companies. It is the company's responsibility to ensure that the Commission has up-to-date and correct contact information. The instructions page informs the regulated company that it must complete the annual report form and pay the regulatory fees, and return the materials by May 1, 2017, to avoid enforcement action.

The company filed their complete annual report on July 11, 2017 and the regulatory fee was paid on July 12.

The Commission will only grant mitigation if the violations occurred due to circumstances beyond the company's control. Ballard Terminal Railroad Company did not illustrate that they were unable to file their annual report and pay their regulatory fee due to circumstances beyond their control. Staff does not recommend mitigation nor a reduction of the penalty. Ballard Terminal Railroad Company indicates that a \$1,000 penalty would impose a substantial hardship. After reviewing the company's prior revenue figures, staff agrees that this penalty may create a financial hardship. As such, Staff recommends that \$500 of the penalty be suspended on the condition the Company timely files its 2017 annual report and the associated regulatory fee by May 1, 2018 and either pays the \$500 unsuspended portion of the penalty or jointly proposes a payment arrangement with Commission Staff within 15 days of the Commission's order.

If you have any questions regarding this recommendation, please contact Sean Bennett, Regulatory Analyst, at (360) 664-1157, or sbennett@utc.wa.gov.

Sincerely,

/s/ Sean Bennett

Sean Bennett, Regulatory Analyst
Administrative Services