Service Date: November 12, 2025

BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Penalty Assessment Against	DOCKET TC-250723
BREMERTON-KITSAP AIRPORTER, INC. D/B/A BREMERTON-KITSAP AIRPORTER, FT. LEWIS/MCCHORD AIRPORTER, THE SOUND CONNECTION; PIERCE-SEATAC AIRPORTER,	ORDER 01
in the amount of $27,300	GRANTING MITIGATION IN PART

BACKGROUND

1 On October 9, 2025, the Washington Utilities and Transportation Commission (Commission) issued a penalty assessment against Bremerton-Kitsap Airporter, Inc. d/b/a Bremerton-Kitsap Airporter, Ft. Lewis/McChord Airporter, The Sound Connection; Pierce-SeaTac Airporter (BKA or Company) in the amount of $27,300 for violations of Washington Administrative Code (WAC) 480-30-221, Vehicle and Driver Safety Requirements, which adopts: Title 49 Code of Federal Regulations (49 C.F.R.) Part 382 – Controlled Substances and Alcohol Use and Testing, 49 C.F.R. Part 383 – Commercial Driver's License Standards, 49 C.F.R. Part 390 – Federal Motor Carrier Safety Regulations; General, and 49 C.F.R. Part 391 – Driver Qualifications, as follows:

- Two violations of 49 C.F.R § 382.301(a) – Using a driver before the motor carrier has received a negative pre-employment controlled substance test result. The Commission assessed a penalty of $500 for each occurrence of these critical violations, for a total of $1,000.
- Two Hundred Forty-eight violations of 49 C.F.R § 383.23(a) – Operating a commercial motor vehicle without a valid commercial driver's license (CDL). The Commission assessed a penalty of $100 for each occurrence of these critical violations, for a total of $24,800.
- One violation of 49 C.F.R § 390.35 – Making or causing to make a fraudulent or intentionally false entry on a record in a driver qualification file on driver(s). The Commission assessed a penalty of $100 for this acute violation.

- Fourteen violations of 49 C.F.R § 391.45(a) – Using a driver not medically examined and certified. The Commission assessed a penalty of $100 for each occurrence of these critical violations, for a total of $1,400.

2 On October 24, 2025, BKA submitted a Request for Mitigation of Penalty Assessment (Response), including additional information related to each violation noted in the penalty assessment. In the Response, the Company admits that the violations occurred, and the Company requests mitigation or a suspension of the penalty. BKA further requests that the Commission make its decision based on the records before it, without the need for further hearing.

3 On November 6, 2025, Commission staff (Staff) filed its reply (Reply).[1] Staff recommends that the original penalty of $27,300 be mitigated to $21,600. Further, Staff recommends that $10,800 of the mitigated penalty be suspended for two years, to be waived, subject to the following conditions:

1. Staff perform a follow-up safety investigation in two years or as soon thereafter as practical.

2. The Company does not incur repeat violations of acute or critical regulations upon reinspection; and

3. BKA pays the $10,800 portion of the penalty that is not suspended.

DISCUSSION AND DECISION

4 Washington law requires passenger transportation companies to comply with federal safety requirements and undergo routine safety inspections. Violations discovered during safety inspections are subject to penalties of $100 per violation.[2] In some cases, Commission requirements are so fundamental to safe operations that the Commission will issue penalties for first-time violations.[3]

---

[1] In formal proceedings, such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. RCW 34.05.455.

[2] *See* RCW 81.04.405.

[3] Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission ¶ 12, 15 (Jan. 7, 2013) (Enforcement Policy).

5 The Commission considers several factors when entertaining a request for mitigation, including whether the company introduces new information that may not have been considered in setting the assessed penalty amount, or explains other circumstances that convince the Commission that a lesser penalty will be equally or more effective in ensuring the company's compliance.[4] The Commission also considers whether the violations were promptly corrected, a company's history of compliance, and the likelihood the violation will recur.[5] We address each violation category below.

6 **49 C.F.R. § 382.301(a).** The Penalty Assessment includes a $1,000 penalty for two violations of 49 C.F.R. § 382.301(a) for using a driver before the motor carrier received a negative pre-employment controlled substance test result. In its Response, the Company provided clarification of the original documents and dates it provided for drivers Kimberly Craig and Jermar Givens related to performing safety sensitive functions (SSF) for the Company. BKA initially provided documentation stating that Craig performed a SSF on June 21, 2025, though the Company claims a further review of its records shows that Craig was in training as an observer prior to the receipt of the pre-employment drug test results. Further, the original charter assignment provided from June 21, 2025, listing "Kim" as the driver was Kim Pickering, not Kim Craig. As for driver Jermar Givens, BKA originally stated that Givens' first day driving was January 21, 2025, and that the Company received a negative pre-employment test result required of CDL drivers on February 1, 2025. In the Response, the Company states that Givens was providing passenger assistance tasks, and that Givens did not perform a SSF until May 1, 2025, once Givens obtained a class C CDL.

7 Staff recommends mitigation of this portion of the penalty in its entirety because the Company provided additional information correcting the record and proving that the violations did not occur.

8 We agree with Staff's recommendation and mitigate this portion of the penalty by eliminating it entirely because the additional information the Company provided proved that the violations did not occur.

9 **49 C.F.R. § 383.23(a).** The Penalty Assessment includes a $24,800 penalty for 248 violations of 49 C.F.R. § 383.23(a) for operating a commercial motor vehicle without a valid commercial driver's license (CDL). In its Response, BKA states that the drivers in violation were all valid license holders prior to July 7, 2025, but that due to medical

---

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

[5] Enforcement Policy ¶19.

examiner certificates being sent to Federal Motor Carrier Safety Administration (FMCSA) for processing, instead of being submitted directly to the Washington Department of Licensing (DOL) is what caused the non-compliance. The Company notes all drivers that were downgraded were a result of not having valid medical certificates attached to driver abstracts.

10 Further, the Company requested a substantial mitigation or suspension of the penalty. BKA states that 248 violations occurred because of recent regulatory changes and infers that the Company would have otherwise complied. The Company argues that the penalty should be thought of as a first-time paperwork violation, referencing Revised Code of Washington (RCW) 34.05.110(2) regarding fines for first-time paperwork violations on small businesses.

11 According to Staff's Reply, the findings present in the investigation report show that there was a breakdown in safety management controls by the Company when it came to reviewing annual driver records to verify the Company's drivers were eligible to operate commercial motor vehicles, and that the Company's Response paints the violations as a result the implementation of National Registry II as a reason for the system breakdown. However, Staff notes that each of the four drivers identified had their CDLs downgraded prior to the June 25, 2025, implementation of the National Registry II rule. Thus, according to Staff, the lack of management controls and review of the drivers' annual motor vehicle records led to the Company allowing a driver to operate for more than a year with a downgraded license. Had BKA appropriately reviewed the drivers' CDLIS reports as required, the Company would have identified the downgrade sooner and prevented these critical violations from occurring.

12 Staff also refutes the Company's reference of RCW 34.05.110(2) that critical violations fall under first-time paperwork violations. According to Staff, critical violations are identified as such where non-compliance relates to management and operational controls. These are indicative of breakdowns in a company's management controls and identified patterns of non-compliance with critical regulations are linked to inadequate safety management controls and higher than average accident rates.

13 Staff agrees with the Company that the purpose of the downgrade was due to drivers failing to report medical examiner certificates to the DOL which resulted in the status change of their CDLs, acknowledge that BKA corrected the violations upon notification, and state that BKA is actively reviewing all current files to ensure compliance. However, Staff notes that the Company's Response does not mention any specific policies or procedures it has implemented to prevent future occurrences. Staff recommends the penalty of $24,800 be mitigated to $20,800.

14 We agree with Staff's recommendation and mitigate this portion of the penalty to $20,800.

15 **49 C.F.R. § 390.35.** The Penalty Assessment includes a $100 penalty for making or causing to make a fraudulent or intentionally false entry on a record in a driver qualification file on driver(s). In its Response, BKA admits the violation occurred and that the employee has been counseled on the importance of truthfully and honestly attesting to legal documents and statements.

16 In Staff's Reply, Staff acknowledges that following the identification of the false entries on the driver abstract reviews that the Company's representatives were forthcoming with their error and took responsibility. However, because the Commission issued a $100 penalty for this acute violation rather than seeking a complaint for a greater penalty for each of the eight separate violations, Staff recommends no mitigation of this portion of the penalty.

17 We agree with Staff and decline to mitigate this portion of the penalty. By assessing a $100 "per category" penalty for these eight violations, the Penalty Assessment assessed a substantially reduced penalty. We thus conclude that no further reduction is warranted.

18 **49 C.F.R. § 391.45(a).** The Penalty Assessment includes a $1,500 penalty for fourteen violations of 49 C.F.R. § 391.45(a) for using a driver not medically examined and certified. In its Response, BKA claims that it will be more diligent when onboarding new employees, and that it will be going through all driver qualification files to ensure they are correct and complete.

19 In its Reply, Staff notes that the driver in violation received a valid medical examiner certificate on April 21, 2025, and that the Company's Response is not specific as to how it will prevent future violations. However, Staff acknowledges that only one of eight drivers sampled had a violation and does not believe the Company has a systemic problem with this regulation. Based on corrective action, Staff recommends that the $1,400 penalty for this violation be mitigated to $700.

20 We agree with Staff's recommendation and mitigate this portion of the penalty to $700. The Company does not have a systemic problem with this regulation and has taken corrective action. Accordingly, we find that a lesser penalty is sufficient to ensure future compliance.

FINDINGS AND CONCLUSIONS

21 (1) The Commission is an agency of the state of Washington, vested by statute with authority to regulate passenger transportation companies, and the Commission has jurisdiction over the parties and subject matter of this proceeding.

22 (2) BKA is a transportation company subject to Commission regulation.

23 (3) BKA did not violate 649 C.F.R. § 382.301(a) by using a driver before the motor carrier received a negative pre-employment controlled substance test result as originally determined.

24 (4) BKA should not be penalized $1,000 for two violations of 649 C.F.R. § 382.301(a).

25 (5) BKA violated 49 C.F.R. § 383.23(a) by operating a commercial motor vehicle without a valid CDL.

26 (6) BKA should be penalized $20,800 for 248 violations of 49 C.F.R. § 383.23(a).

27 (7) BKA violated 49 C.F.R. § 390.35 by making or causing to make a fraudulent or intentionally false entry on a record in a driver qualification file on driver(s).

28 (8) BKA should be penalized $100 for one violation of 49 C.F.R. § 390.35.

29 (9) BKA violated 49 C.F.R. § 391.45(a) by using a driver not medically examined and certified on fourteen occasions.

30 (10) BKA should be penalized $700 for fourteen violations of 49 C.F.R. § 391.45(a).

ORDER

THE COMMISSION ORDERS:

31 (1) BKA's request for mitigation of the $27,300 penalty is GRANTED, in part, and the penalty is reduced to $21,600. Further, $10,800 of the mitigated penalty is suspended for two years, to be waived, subject to the conditions identified in paragraph 3.

32 The Secretary has been delegated authority to enter this order on behalf of the Commissioners under WAC 480-07-903(2)(e).

DATED at Lacey, Washington, and effective November 12, 2025.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Killip, Jeff (UTC) Digitally signed by Killip, Jeff (UTC) Date: 2025.11.10 19:16:04 -08'00'

JEFF KILLIP
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.