

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Penalty Assessment Against  
CWA, INC., in the Amount of \$100

DOCKET TE-100267

DECLARATION OF  
SHERI HOYT

SHERI HOYT, under penalty of perjury under the laws of the state of Washington, declares as follows:

1. I am over 18 years of age, a citizen of the United States, a resident of the state of Washington, and competent to be a witness.
2. I am employed by the Washington Utilities and Transportation Commission (Commission) as a Compliance Investigator in the Compliance Investigations Section. I have been employed at the Commission for 18 years, holding various positions. As a Compliance Investigator, my responsibilities include conducting investigations regarding the business practices of regulated utility or transportation companies. As part of those duties, I investigate charter and excursion carriers that may be operating in violation of Commission statute or rule.
3. On February 23, 2010, Richard Johnson, on behalf of CWA, Inc. (CWA) filed with the Commission an Application for Mitigation (Mitigation Request), in Docket TE-100267. I have read the Mitigation Request. In the Mitigation Request, CWA admits the violation occurred and requests a decision by an administrative law judge.
4. This Mitigation Request arises from a Notice of Penalties Incurred and Due for Violations of Laws and Rules issued by the Commission on February 19, 2010, in Docket TE-100267. In that Notice, the Commission issued a penalty of \$100 for a violation of Washington Administrative Code (WAC) 480-30-071, which requires charter and excursion carriers to file annual safety reports with the Commission by December 31 each year.
5. Before recommending the Commission issue penalties, as part of my job, I conducted an investigation of Commission records concerning CWA. I documented my investigation in a report titled, "Staff Investigation - 2009 Annual Safety Reports."<sup>1</sup> I identified the violation in this case from records maintained by the Commission.

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<sup>1</sup> A true and accurate copy of the investigation report is attached to this declaration as Attachment A.

## Specific Issues Addressed by CWA in its Mitigation Request

**CWA stated it does not run charters, instead running a schedule only. Further, Mr. Johnson stated he contacted Tom McVaugh in December to remind him that the UTC has made the same error for the last several years and the company responds the same way each time, which is to call and remind that it doesn't run charters so it can't complete the form. Because the company communicated the error to the UTC, it does not think it should be penalized.**

6. In the Mitigation Request, CWA stated it contacted Commission staff regarding what it perceived to be a Commission error in receiving the form. CWA stated it cannot complete the form as it does not provide charter services.
7. On February 15, 2008, in Docket No. TC-080207, the Commission granted CWA's application for Auto Transportation authority, authorizing passenger services between Walla Walla and Pasco, Washington, under Certificate 63162.
8. Commission records indicate CWA timely filed with the Commission the previous year's annual safety report, the 2008 report, on December 2, 2008<sup>2</sup>. The 2009 Regulatory Fee Calculation Schedule that accompanied the annual safety report indicates the company used one vehicle for intrastate charter or excursion operations during the year. The appropriate regulatory fee payment of \$25 accompanied the report. There are no notations on the report that would indicate the company felt it should not have to file the report.
9. On August 7, 2009, also in Docket No. TC-080207, the Commission issued an Order revising and reissuing CWA's authority to include statewide charter and excursion carrier service after it was brought to the Commission's attention that the authority was omitted from the carrier's authority upon issuance of Certificate 63162.

### Staff Recommendation

10. Although Staff understands that CWA believes it should not have to file an annual safety report, the charter and excursion authority it currently holds in C-63162 requires that an annual safety report be filed with the Commission and requires that the company pay an annual regulatory fee, as well. Mr. Johnson was instructed by Commission staff Tom McVaugh on what to do if CWA felt it should not have to file a report. Mr. Johnson took no action and the Commission has yet to receive CWA's 2009 annual safety report or 2010 regulatory fee. Staff opposes mitigation of the penalty.

DATED this            day of March 2010 at Olympia, Washington.

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SHERI HOYT

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<sup>2</sup> A true and accurate copy of CWA's 2008 Annual Safety Report is attached to this declaration as Attachment B.

## Attachment A

### Charter and Excursion Carriers Staff Investigation - 2009 Annual Safety Reports February 8, 2010

#### **Purpose**

The purpose of this investigation is to determine if 14 charter and excursion carriers<sup>1</sup> are in violation of Washington Administrative Code (WAC) 480-30-071. WAC 480-30-071 requires charter and excursion carriers to furnish annual safety reports to the commission no later than December 31 each year.

#### **Background**

This investigation was prompted by commission staff's yearly review of annual safety reports for charter and excursion carriers registered in the state of Washington.

On November 3, 2009, the commission mailed 2009 Annual Safety Report forms and 2010 Regulatory Fee packets to charter and excursion carriers registered in Washington State. A letter from Executive Director and Secretary David W. Danner instructed companies to file annual safety reports and pay regulatory fees by December 31, 2009<sup>2</sup>. Further, the letter stated failure to file the annual safety report by December 31 would result in a penalty and possible cancellation of the company's permit to operate in Washington. Those companies wishing to request an extension to file the annual safety report were asked to do so prior to December 31, providing a reason for the requested extension.

#### **Investigation**

The 14 charter and excursion carriers listed in attached Appendix A failed to file their 2009 annual safety reports by the December 31 deadline. On January 15, 2010, the commission sent letters to those companies that had not yet filed their reports. The letter, signed by David W. Danner, gave an extension to companies to file their reports by January 29, 2010<sup>3</sup>. In the letter, Mr. Danner stated the commission would not seek to penalize any company with a report received postmarked by January 29, 2010. None of the 16 companies listed in Appendix A requested an extension.

#### **Recommendation:**

Staff recommends the commission penalize the 14 charter and excursion carriers that failed to file a 2009 annual safety report by January 29, 2010, \$100 each for a violation of WAC 480-30-071.

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<sup>1</sup> See Appendix A for a list of the charter and/or excursion carriers.

<sup>2</sup> See Appendix B for a copy of the November 3, 2009, letter sent to charter and excursion carriers.

<sup>3</sup> See Appendix C for a copy of the January 15, 2010, delinquent letter sent to charter and excursion carriers.

APPENDIX A

	<b>Company Name</b>	<b>Report Received Yes or No</b>	<b>If yes, Date Received</b>	<b>Recommended Penalty Amount</b>
1.	American Patriot Coach, LLC	No		\$100
2.	Bray, Keegan	Yes	February 8, 2010	\$100
3.	BRC Developments, LLC	No		\$100
4.	Cook, Thomas J. & Linda K.	No		\$100
5.	CWA, Inc.	No		\$100
6.	Dazzled by Twilight, LLC	Yes	February 1, 2010	\$100
7.	Driver For Hire, Inc.	No		\$100
8.	Global Services, LLC	No		\$100
9.	J & P Bell Industries, Inc.	No		\$100
10.	Kevin Limousine, Inc.	No		\$100
11.	Pacific Northwest Distributing, LLC	Yes	February 9, 2010	\$100
12.	Redneck Limo Service, LLC	No		\$100
13.	Ryan's Express Motorcoach DBA Ryan's Express Motorcoach a California Corporation	No		\$100
14.	Travel NW Style, LLC	No		\$100

## APPENDIX B

November 3, 2009

### **Subject: Your Charter and Excursion Annual Safety Report and Regulatory Fees are Due December 31, 2009**

You are required to file an annual safety report and pay regulatory fees if you operate as a charter or excursion company.

#### **What is required of me?**

By December 31, you must:

- Complete and file the enclosed 2009 annual safety report form.
- Pay your 2010 regulatory fees.

**If you are using U.S. postal mail to send your annual safety report and pay your regulatory fee, the envelope must be postmarked by Tuesday, December 29, 2009. If you are planning on using another delivery method, the company must ensure that it arrives at the commission by 5:00 p.m. Thursday, December 31, 2009.**

**Failure to file or mail your annual safety report or pay regulatory fees by December 31, 2009 will result in a penalty and possible cancellation of your permit to operate in Washington. This is the only notice you will receive from the commission.**

#### **What happens if I do not pay my regulatory fees by December 31?**

If regulatory fees are not paid by December 31, you will incur:

- a 2 percent penalty on the amount due; and
- a 1 percent monthly interest charge on the unpaid balance.

#### **Can I request an extension of time if I am unable to file the annual safety report by December 31?**

Yes, you must provide the request in writing, including a valid reason for the extension by December 31. We will notify you when your request is approved or denied. You will still be liable for penalty and interest payments if you fail to pay your regulatory fees by December 31. If you are late filing your annual safety report or fail to file, you could incur additional penalties up to \$100 a day.

November 3, 2009

Page 2

**What if I didn't operate during the year?**

You must indicate this on the report and regulatory fee sheet that you've had no operations, include the minimum \$25 fee and return both forms to the commission. If you are no longer using your charter or excursion authority and wish to cancel it, go to our website at [www.utc.wa.gov](http://www.utc.wa.gov) and locate the, "voluntary permit cancellation form" or call us at (360) 664-1222 and we'll mail you the form.

**Where do I mail the completed annual safety report form and regulatory fee payment?**

Washington Utilities and Transportation Commission  
PO Box 47250  
Olympia, WA 98504-7250

**Where can I obtain an electronic version of the annual safety report?**

Forms are available on our website at [www.utc.wa.gov](http://www.utc.wa.gov). Locate "Quick Links" then select "2009 annual safety report".

**Who do I contact if I have questions?**

You may call Tom McVaugh at (360) 664-1237 or e-mail him at [tmcvaugh@utc.wa.gov](mailto:tmcvaugh@utc.wa.gov) for questions related to the annual safety report. If you have questions calculating your regulatory fee, penalties or interest, call Rae Lynn Carnes at (360) 664-1152 or e-mail her at [rcarnes@utc.wa.gov](mailto:rcarnes@utc.wa.gov). If you need this information in an alternate format, please call (360) 664-1133. TTY Toll Free phone number is (800) 416-5289 or (360) 586-8203.

Sincerely,

David W. Danner  
Executive Director and Secretary

Enclosures

## APPENDIX C

January 15, 2010

Subject: Charter and Excursion Annual Safety Report and Regulatory Fees

On November 2, 2009, the Washington Utilities and Transportation Commission mailed you a safety report and regulatory fee calculation form. The safety report and fees were due by December 31, 2009.

Our records indicate that we have not received your completed safety report or regulatory fees for 2010.

You have already incurred a penalty of 2 percent of the total amount due for failure to pay your 2010 regulatory fees by December 31, 2009. You will be charged 1 percent interest per month on the balance until it is paid in full.

Commission staff may recommend enforcement action, which includes penalties of up to \$100 per day, against any company that does not file a completed safety report. **To avoid this potential enforcement action, the commission must receive your safety report postmarked no later than January 29, 2010.**

The safety report and regulatory fee forms are available on our Web site at [www.utc.wa.gov](http://www.utc.wa.gov). If you have questions about how to complete the safety report call Tom McVaugh at (360) 664-1237 or e-mail him at [tmcvaugh@utc.wa.gov](mailto:tmcvaugh@utc.wa.gov). If you have questions about your regulatory fee, penalties or interest, call Rae Lynn Carnes at (360) 664-1152 or e-mail her at [rcarnes@utc.wa.gov](mailto:rcarnes@utc.wa.gov).

Sincerely,



David W. Danner  
Executive Director and Secretary

Attachment B

CHARTER & EXCURSION CARRIERS  
ANNUAL SAFETY REPORT

RECEIVED

DEC 02 2008

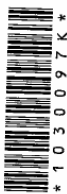
CH- \_\_\_\_\_ ES- \_\_\_\_\_ C- \_\_\_\_\_ MC- \_\_\_\_\_

WASH. UT. & TP. COMM

2008  
62162

C063162  
CWA, INC.  
d/b/a TRAVEL WASHINGTON GRAPELINE  
1416 WHITEHORN ST  
FERNDALE WA 98248

ENTERED IN COMPUTER
DEC 16 2008
ENTERED IN COMPUTER
DEC 16 2008
Correct name and address if different than shown



WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
for the  
YEAR ENDED DECEMBER 31, 2008

Address inquiries concerning this Annual Safety Report to:

COMPANY CONTACT: Richard Johnson TITLE: President  
 ADDRESS: 1416 Whitehorn St  
 CITY: Ferndale STATE: WA ZIP: 98248  
 TELEPHONE: \_\_\_\_\_ FAX: \_\_\_\_\_ E-MAIL: \_\_\_\_\_

The company must notify the commission, in writing, of any changes to the above information.

TYPE OF PAYMENT - DO NOT SEND CASH IN THE MAIL <input type="checkbox"/> Check <input type="checkbox"/> Money Order <input checked="" type="checkbox"/> AMEX <input type="checkbox"/> Visa <input type="checkbox"/> MasterCard <input type="checkbox"/> Discover Credit Card Number: _____ Expiration Date: ____/____/____	For Commission Use Only Credit Card Authorization #: _____ Expiration Date: ____/____/____
CERTIFICATION: I, the undersigned, under penalty for false statement, certify that the information is true, valid and correct, and I am authorized to execute on behalf of the applicant, and that I agree to pay the above total amount according to card issuer agreement.	
Name (Printed): <u>Richard Johnson</u> Signature: <u>R Johnson</u>	Title: <u>President</u> Date: <u>11/26/08</u>

Posted

For Commission Use Only			
Reception Number: <u>0015723</u>	001-111-02-68-232-11: _____	Ref No: _____	
001-111-02-68-232-01: <u>25.00</u>	001-111-02-68-032-05: _____	001-108-01-70-232-13: _____	

Original to be mailed to the Washington Utilities and Transportation Commission, PO Box 47250, Olympia, WA 98504-7250  
Web Site: [www.utc.wa.gov](http://www.utc.wa.gov) Telephone: (360) 664-1237

Do not remove, rearrange or deface the contents of this Report in any way. If you need copies, please contact the Records Center Staff at 4-1234.



1. Washington Unified Business Identifier (UBI) No.: 602240445  
(If you do not know your UBI No. please contact the Department of Licensing at (360) 664-1400)
2. Current insurance company: National Interstate
3. Insurance policy number: YPP1317740-03
4. Number of recordable intrastate and interstate accidents in 2008.

(Please include the total recordable accidents for both intrastate and interstate passenger charter/excursion operations based in Washington.)

Recordable Accidents	Intrastate	Interstate
An occurrence involving a commercial vehicle on a public road in interstate or intrastate commerce that resulted in:		
A. A fatality.	0	
B. An injury to a person requiring immediate treatment away from the scene of the accident.	0	
C. Disabling damage to a vehicle, requiring it to be towed from the accident scene.	0	
Total number of recordable accidents	0	

5. Total operating miles for the year 2008:

Intrastate 610

Interstate 0

*Intrastate:* Trips that begin and end within the state of Washington.

*Interstate:* Trips that begin or end outside the state of Washington.

6. Did you provide charter bus operations for any Washington school districts during 2008?  
 Yes     No

## CERTIFICATION

Under penalty of perjury, I certify that I have examined this report, I am responsible for it, and it is in all respects a true and correct statement of the business and affairs of Grape Line for the period January 1, 2008, through December 31, 2008.

(company name)

Name (Printed): Richard Johnson

Title: President

Signature: [Handwritten Signature]

Date signed: 11/26/08

Keep a copy of the completed report for your records.

End of safety report.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
P.O. Box 47250 Olympia, WA 98504-7250

CHARTER AND EXCURSION REGULATORY FEE CALCULATION SCHEDULE

Company Name CWA, Inc dba Grape Line Regulatory fee year 2009

In accordance with RCW 81.70.350, the commission requires charter and excursion companies to file reports of the number of vehicles operated by the company in intrastate commerce at any time during the calendar year and pay the sum of \$25 annually for each vehicle operated. Every company subject to regulation shall file with the commission a statement under oath and pay to the commission a fee as calculated below.

1	Total number of vehicles used for intrastate charter or excursion operations during the year				1	1
2	Total regulatory fee due (enter amount from line 1)	2	1	x 25.00 =	\$	25
There is a minimum fee of \$25.00						Agency Use Only: 001-111-02-88-232-01

Complete Lines 3 through 6 if filing after December 31

3	Penalties on regulatory fees filed after December 31				3	
3a	Total penalties on regulatory fees due (enter amount from line 2)	3a	\$	x .02 (2%) =	\$	
4	Interest on regulatory fees filed after December 31				4	
4a	Amount from line 2 _____ x number of months past December _____ x .01 (1%) =	4a	\$			
5	Total penalties and interest due (add lines 3a and 4a)				5	\$
Agency Use Only: 001-111-02-88-232-11						
6	Total regulatory, penalty and interest fees due (add lines 2 and 5)				6	\$ 25 ✓

If you have questions about calculating your regulatory fee, penalties or interest, contact Rae Lynn Carnes at (360) 664-1152 or rcarnes@utc.wa.gov.