

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Penalty Assessment)	DOCKET TE-110216
Against)	
)	
LANDMARK TRAVEL SERVICE,)	ORDER 01
INC. D/B/A PUGET SOUND)	
COACHLINES.)	
)	ORDER DENYING
In the amount of \$2,400.)	MITIGATION; REQUIRING
)	PAYMENT OF PENALTY
.....)	

- 1 **Penalty.** On February 11, 2011, the Washington Utilities and Transportation Commission (Commission) assessed a penalty in Docket TE-110216 in the amount of \$2,400 against Landmark Travel Service, Inc. d/b/a Puget Sound Coachlines (Landmark), for 24 violations of WAC 480-30-221, which adopts by reference 49 C.F.R. Part 391.45(a), a mandate that drivers must be medically examined and certified as physically qualified to operate a commercial motor vehicle.

- 2 **Application for Mitigation.** Landmark filed an Application for Mitigation (Application) on March 4, 2011, and waived a hearing. Landmark explains that its new employee incorrectly assumed that his predecessor had kept the driver qualification files up-to-date.

- 3 **Answer.** On March 4, 2011, the Commission’s regulatory staff (Staff) filed a response opposing the Application. Staff states that Landmark received the penalty assessment order on February 14, 2011. The mitigation application, attached to the penalty assessment order, states that the mitigation request must be filed within 15 days of receipt. The mitigation request deadline was March 1, 2011. Staff asserts that, because Landmark’s mitigation application was not received until March 4, 2011, after the deadline, Landmark’s mitigation request should be denied.

- 4 **Commission Decision.** RCW 81.04.405 allows the Commission to consider remission or mitigation of penalties “upon written application ... received within fifteen days.” The statute makes no “good cause” or other exception to this 15-day deadline to seek review of penalties imposed by the Commission. Thus, regardless of the circumstances, the Commission has no jurisdiction to consider untimely petitions.
- 5 The Commission must therefore deny Landmark’s late-filed application for mitigation. It is undisputed that the company received the penalty assessment by certified mail on February 14, 2011. Under RCW 81.04.405, the company was required to ensure its response was received by the Commission no later than March 1, 2011. The company failed to do so.
- 6 Landmark’s application for mitigation was received by the Commission on March 4, 2011, three days after the statutory deadline for such applications had expired. Under RCW 81.04.405, the Commission has no jurisdiction to mitigate or otherwise review the penalty. Accordingly, the penalty of \$2,400 is due and payable immediately.
- 7 The Executive Director and Secretary has been delegated to enter this Order on behalf of the Commissioners under WAC 480-07-904(1)(h).

DATED at Olympia, Washington, and effective March 8, 2011.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER
Executive Director and Secretary

NOTICE TO PARTIES: This is an order delegated to the Executive Secretary for decision. Under WAC 480-07-904(3), you may seek Commission review of this decision. In addition to serving you a copy of the decision, the Commission will post on its Internet Web site for at least 14 days a listing of all matters delegated to the Executive Secretary for decision under WAC 480-07-904(1). You must file a request for Commission review of this order no later than fourteen (14) days after the date the decision is posted on the Commission's Web site. The Commission will schedule your request for review for consideration at a regularly scheduled open meeting. The Commission will notify you of the time and place of the open meeting at which the Commission will review the order.

The Commission will grant a late-filed request for review only on a showing of good cause, including a satisfactory explanation of why the person did not timely file the request. A form for late-filed requests is available on the Commission's Web site.