

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment)	DOCKET TE-130205
Against)	
)	ORDER 01
Leavenworth’s Enchanted Tours, LLC)	
)	ORDER DENYING MITIGATION
in the amount of \$900.00)	
.....)	

- 1 On January 7, 2013, the Washington Utilities and Transportation Commission (Commission) notified charter and excursion companies that had not yet filed their annual safety reports and paid their regulatory fees—due each year on December 31—that it would start imposing daily penalties as of January 7, 2013. WAC 480-30-071 and 480-30-076. The Commission received Leavenworth’s Enchanted Tours, LLC’s (Leavenworth or Company) annual report on March 14, 2013, and Leavenworth’s fee on March 19, 2013.
- 2 On March 5, 2013, the Commission notified Leavenworth that the Commission was assessing a penalty against the Company because Leavenworth had not yet filed its report or paid its fee. The Commission stated that it would impose a mitigated penalty against Leavenworth of \$50.00 per day, for the 18 business days between January 7, 2013, and January 31, 2013, for a total penalty of \$900.00.
- 3 On March 14, 2013, Leavenworth responded to the Commission, requesting further mitigation. Leavenworth states that it has no record of receiving any correspondence from the Commission other than the “normal notice” that the company receives in November. The Company argues that the Commission should send notice of an impending fine via registered mail, because of the size of the penalty.
- 4 On March 28, 2013, Commission Staff (Staff) filed a response opposing the Company’s request for mitigation. Staff points out that Leavenworth admits receiving a November 2012 reminder letter about the deadline as well as the penalty assessment. Staff confirms that the Commission used the same address for all of its correspondence with Leavenworth and that none of it was returned as undeliverable.
- 5 Staff further notes that the penalty assessment letter from the Commission explained that mitigation would not be granted on the basis that a company was unaware that a

report must be filed. Finally, Staff observes that the Commission has already mitigated Leavenworth's penalty by reducing it from the statutorily authorized amount of \$100 per day to \$50 per day.

- 6 The Commission denies Leavenworth's request for additional mitigation. Leavenworth calls the Commission's November annual report and fee letter "normal", showing that the Company was aware that both must be filed. Leavenworth does not assert that it did not receive the Commission's transmittal of the annual report form that warned that late filers would incur penalties, or the penalty assessment letter itself. In sum, Leavenworth offers no support for its request for additional mitigation.
- 7 The Acting 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 April 2, 2013.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

STEVEN V. KING
Acting 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 a listing of all matters delegated to the Executive Secretary for decision under WAC 480-07-904(1) on its website for at least 14 days. You must file a request for Commission review of this order no later than 14 days after the date the decision is posted on the Commission's website.

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 website.