

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment) DOCKET TE-141049
Against)
) ORDER 01
ALCLS, LLC)
) ORDER GRANTING
in the amount of \$1,000) MITIGATION TO \$200
.....)

BACKGROUND

- 1 Washington law requires charter and excursion carriers to file annual reports by May 1 of each year. WAC 480-30-071. On November 23, 2013, the Washington Utilities and Transportation Commission (Commission) mailed a letter to all charter and excursion carriers explaining that it recently adopted a rule changing the annual report due date for those carriers from December 31 to May 1. Regulatory fees remain due on December 31. On February 28, 2014, the Commission mailed annual report forms to all charter and excursion carriers. The forms included a reminder that companies must file their annual reports by May 1, 2014, or face penalties of \$100 for each violation of Commission rules. In the case of continuing violations, each day’s continuance is a separate violation. RCW 80.04.405.
- 2 ALCLS, LLC did not file its annual report on May 1, 2014, and had not made that filing by May 15. On May 23, the Commission assessed a penalty of \$1,000 against ALCLS, LLC, calculated as \$100 per business day from May 1 to May 15.
- 3 On May 30, 2014, ALCLS, LLC responded to the Commission’s penalty assessment admitting the violations and requesting mitigation of the penalty based on the written information provided. The Company explained that it did not receive the report in the mail, and that it could not afford the \$1,000 penalty; it operates one limousine, and believes that paying the penalty would put it out of business.
- 4 ALCLS, LLC timely paid its regulatory fees, and ultimately filed its annual report on May 30, 2014.

5 On June 6, 2014, Commission Staff (Staff) filed a response recommending a penalty reduction to \$200 because the Company timely paid its regulatory fees and has no prior infractions of WAC 480-30-071. Staff also noted that the Commission recently adopted new rules requiring annual reports for charters and excursions to be filed by May 1, while the regulatory fees remain due on December 31.

DISCUSSION

6 WAC 480-30-071 requires charter and excursion carriers to file annual reports by May 1 of each year. Companies are responsible for complying with their legal obligations, and the Company should have been aware of the need to file an annual report, particularly given the Commission's reminders. The Company should not, however, rely on the Commission's notifications to ensure compliance.

7 The Commission nevertheless agrees with Staff's recommendation. The Commission may consider a number of factors when entertaining a request for mitigation, including a company's history of compliance, whether the violation was promptly corrected, the likelihood the violation will recur, and annual intrastate revenue.¹ This is ALCLS, LLC's first violation of WAC 480-30-071. The Company timely paid its regulatory fee, and has since filed its annual report. Additionally, the Company has been regulated since 2004; given its history of compliance, the violation is not likely to recur. Finally, the Company has expressed financial hardship. The Commission's goal is to obtain compliance, not create an insurmountable financial burden for a small company. While we are not willing to waive the penalty in its entirety, the Commission will exercise its discretion to reduce the penalty to \$200.

ORDER

THE COMMISSION ORDERS:

8 (1) The request of ALCLS, LLC for mitigation of the \$1,000 penalty is **GRANTED** in part, and the penalty is reduced to \$200.

¹ Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission (January 7, 2013).

9 (2) The penalty is due and payable no later than July 21, 2014.

10 The 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 July 7, 2014.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

STEVEN V. KING
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. 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.