

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment)	DOCKET TE-141065
Against)	
)	ORDER 01
KITSAP TOURS LIMITED)	
)	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 Kitsap Tours Limited timely paid its regulatory fee, but did not file its annual report on May 1, 2014, and had not made that filing by May 15. On May 27, the Commission assessed a penalty of \$1,000 against Kitsap Tours Limited, calculated as \$100 per business day from May 1 to May 15.

- 3 On May 22, 2014, Kitsap Tours Limited filed its annual report. On June 4, the Company 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 was unsure whether the annual report forms applied to its operations, and misunderstood the filing requirements. The Company provided assurances of future compliance, and noted that the business is very small and has yet to earn a profit.

- 4 On June 13, 2014, Commission Staff (Staff) filed a response recommending a penalty reduction to \$200 because the Company timely paid its regulatory fee and has no prior violations 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

- 5 WAC 480-30-071 requires charter and excursion carriers to file annual reports by May 1 of each year. Companies are responsible for being aware of applicable Commission rules and complying with their legal obligations. Accordingly, the Company should have been aware of the need to file an annual report by May 1, particularly when the Commission sent forms and a reminder on February 28.
- 6 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 a company's intrastate revenue.¹ This is Kitsap Tours Limited'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 active since 2010, and the Commission recently adopted rules that changed the filing procedure for 2014; given the Company's compliance prior to the rule change, the violation is not likely to recur. Finally, the Company had no intrastate revenue for 2013. The Commission's goal is to obtain compliance, not create an insurmountable financial burden for a small company. In light of these factors, the Commission will exercise its discretion to reduce the penalty to \$200.

ORDER

THE COMMISSION ORDERS:

- 7 (1) The request of Kitsap Tours Limited 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).

8 (2) The penalty is due and payable no later than August 15, 2014.

9 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 August 1, 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.