

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment	)	DOCKET TE-141078
Against	)	
	)	ORDER 01
ANDRE C. SELFA	)	
	)	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 Andre C. Selfa did not file its annual report on May 1, 2014, and had not made that filing by May 15. On May 23, 2014, the Commission assessed a penalty of \$1,000 against Andre C. Selfa, calculated as \$100 per business day from May 1 to May 15.
- 3 On May 29, 2014, Andre C. Selfa responded to the Commission’s penalty assessment admitting the violations and requesting mitigation of the penalty based on the written information provided. The Company stated that it inadvertently failed to file its annual report, apologized for its error, and explained that its average monthly revenue is \$1,200. The Company requested a reduced penalty on the basis of financial hardship.

4 The Company timely paid its regulatory fee and ultimately filed its annual report on May 29, 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 fee 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.

7 The Commission nevertheless agrees with Staff's recommendation to reduce the penalty, but on slightly different grounds. Andre C. Selfa has been permitted by the Commission since May 16, 2013. Because 2014 was the first year the Company was required to pay regulatory fees and file an annual report, the Company had neither experience operating under the previous rules nor the opportunity to violate them. Accordingly, it does not follow that the Commission would excuse its behavior based on the lack of prior violations.

8 The Commission may consider a number of factors when entertaining a request for mitigation, including whether the company promptly corrected the violation, the company's compliance history, and the company's annual intrastate revenue.<sup>1</sup> Andre C. Selfa has been regulated by the Commission for a short time. The Company did, however, timely pay its regulatory fees, which demonstrates a willingness to comply with Commission rules. The Company also promptly corrected the violation by filing its annual report upon receipt of the penalty. Finally, the Company has expressed that the penalty would create a financial hardship. The Commission's goal is to obtain compliance, not create an insurmountable financial burden for a small company.

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

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:

- 9 (1) The request of Andre C. Selfa for mitigation of the \$1,000 penalty is GRANTED in part, and the penalty is reduced to \$200.
- 10 (2) The penalty is due and payable no later than July 21, 2014.
- 11 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.**