

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment)	DOCKET TE-151043
Against)	
)	ORDER 01
RECREATION WITHOUT BORDERS,)	
LLC)	ORDER DENYING REQUEST FOR
)	HEARING; DENYING CONTEST
)	OF VIOLATION; GRANTING
in the amount of \$1,000)	MITIGATION TO \$250
.....)	

BACKGROUND

- 1 Washington law requires charter and excursion carriers to file annual reports and pay regulatory fees by May 1 of each year. WAC 480-30-071. On February 27, 2015, the Washington Utilities and Transportation Commission (Commission) mailed annual report and regulatory fee packets to all charter and excursion carriers. The forms included a reminder that companies must file their annual reports and pay their regulatory fees by May 1, 2015, 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 Recreation Without Borders, LLC (Recreation Without Borders or Company) did not file its annual report by May 1, and had not made that filing by May 15. On June 10, the Commission assessed a penalty of \$1,000 against Recreation Without Borders, calculated as \$100 per business day from May 1 to May 15.

- 3 On June 12, 2015, Recreation Without Borders filed its annual report. That same day, the Company responded to the Commission’s penalty assessment, contested the violations and requesting a hearing. The Company provided the following information: “Paid regulatory fees in Nov. 2014. Mailed annual report on May 1, 2015. Have a working copy I can re-mail certified.”

- 4 On June 25, 2015, Commission staff (Staff) filed a response recommending the Commission a reduced penalty of \$25 per day, or \$250, because the Company timely paid its regulatory fee and has no prior violations of WAC 480-30-071.

DISCUSSION

5 WAC 480-30-071 requires charter and excursion carriers to file annual reports and pay regulatory fees by May 1 of each year. Companies are responsible for complying with their legal obligations, and the Company should have ensured its report was timely filed.

6 As a preliminary matter, we deny the Company's request for a hearing. The Commission's penalty assessment advised the Company that a request for hearing will only be granted if material issues of law or fact require consideration of evidence and resolution in hearing. Here, no issues of law or fact are in dispute. The Commission received the Company's annual report on June 12, 2015. The facts, therefore, are undisputed, and the law is clear. Accordingly, the Company's request for a hearing is denied.

7 The Commission also denies the Company's contest of the violations. The undisputed facts demonstrate that the Commission received the Company's annual report on June 12, 2015. The Company has thus violated the law.

8 We will, however, construe the Company's submission as a request for mitigation and assess a reduced penalty. The Commission may consider a number of factors when entertaining a request for mitigation, including whether the violation was promptly corrected, a company's history of compliance, and the likelihood the violation will recur.¹ Here, Recreation Without Borders timely paid its regulatory fee and has since filed its annual report. In addition, this is the Company's first violation of WAC 480-30-071 since it became regulated in 2013. Although the Company has a relatively brief history of compliance, we have routinely granted mitigation for first time violations. In light of these factors, the Commission will exercise its discretion to reduce the penalty to \$250.

ORDER

THE COMMISSION ORDERS:

9 (1) Recreation Without Borders, LLC's request for a hearing is DENIED.

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

- 10 (2) Recreation Without Borders, LLC's contest of the violations is DENIED.
- 11 (3) Recreation Without Borders, LLC's request for mitigation is GRANTED, in part,
and the penalty is reduced to \$250.
- 12 (4) The \$250 penalty is due and payable no later than July 10, 2015.
- 13 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 June 30, 2015.

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.