

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET TG-160658
LUDTKE-PACIFIC TRUCKING, INC.	ORDER 01
in the amount of \$1,000	ORDER DENYING REQUEST FOR HEARING; DENYING MITIGATION

BACKGROUND

- 1 On February 29, 2016, the Washington Utilities and Transportation Commission (Commission) mailed annual report and regulatory fee forms to all regulated solid waste companies. The forms included a reminder that companies must file their annual reports and pay their regulatory fees by Monday, May 2, 2016, 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 Ludtke-Pacific Trucking, Inc. (Ludtke-Pacific or Company) filed an incomplete annual report on April 27, 2016, and did not make a complete filing until May 4. On June 17, the Commission assessed a penalty of \$200 penalty against Ludtke-Pacific, calculated as \$100 per business day from May 2 to May 4.
- 3 On June 24, 2016, Ludtke-Pacific responded to the Commission's penalty assessment contesting the violations and requesting a hearing. The Company provided the following information: "I have included a copy of the confirmation number and receipt showing that Ludtke-Pacific Trucking submitted and paid the regulatory fee on April 27, 2016. These violations did not occur and the filing and fees were paid 5 days prior to the due date." Following a discussion with Commission staff (Staff), Ludtke-Pacific filed a complete annual report on May 4.
- 4 On July 7, 2016, Commission staff (Staff) filed a response recommending the Commission deny the Company's request for a hearing. Staff explained that the Company's initial filing did not specify the sources of the Company's "other revenue," as required. Staff contacted the Company on May 4 and obtained the missing information. Staff further recommended the Commission deny the Company's request for mitigation because Ludtke-Pacific filed its annual reports late in 2006, 2009, 2011, 2013, and 2014.

DISCUSSION

5 WAC 480-70-071 requires solid waste companies to file annual reports and pay regulatory fees by May 1 of each year, or the first business day thereafter. Companies are responsible for complying with their legal obligations, and Ludtke-Pacific should have ensured its annual report was complete when filed, particularly in light of the Company's multiple prior violations.

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. Commission records show that the Company's annual report was not complete until May 4, 2016. The facts, therefore, are undisputed, and the law is clear. Accordingly, the Company's request for a hearing is denied.

7 Nor is mitigation of the penalty appropriate under these circumstances. The Commission may consider a number of factors when entertaining a request for mitigation, including a company's history of compliance and the likelihood the violation will recur.¹ Ludtke-Pacific filed its annual reports late in 2006, 2009, 2011, 2013, and 2014. Moreover, the Company has not presented any new or compelling information that would warrant a penalty reduction. We find the \$200 penalty to be an appropriate incentive for the Company to ensure timely filings going forward.

ORDER

THE COMMISSION ORDERS:

- 8 (1) Ludtke-Pacific Trucking, Inc.'s request for a hearing is DENIED.
- 9 (2) Ludtke-Pacific Trucking, Inc.'s request for mitigation is DENIED.
- 10 (4) The \$200 penalty is due and payable no later than July 25, 2016.

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

- 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 11, 2016.

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.