

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET TE-160683
BARNFATHER PROPERTIES, LLC	ORDER 01
in the amount of \$1,000	ORDER GRANTING MITIGATION TO \$250

**BACKGROUND**

- 1 On February 29, 2016, the Washington Utilities and Transportation Commission (Commission) mailed annual report and regulatory fee forms to all charter and excursion carriers. 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 Barnfather Properties, LLC (Barnfather or Company) did not file its annual report by May 2, 2016, and had not made that filing by May 16. On June 20, the Commission assessed a penalty of \$1,000 against Barnfather, calculated as \$100 per business day from May 2 to May 16.
- 3 On June 23, 2016, Barnfather responded to the Commission's penalty assessment, requesting a hearing and contesting the violations. In its request, the Company stated, "we never received any paperwork for this. Had no idea I was out of compliance. Please help."
- 4 On July 1, 2016, Commission staff (Staff) filed a response recommending a penalty reduction to \$25 per day, or \$250, because the Company became regulated in 2015 and therefore has no prior violations of WAC 480-30-071. Staff's recommendation is conditioned on the Company filing a complete annual report and paying the required regulatory fees by July 15, 2016.

## 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, or the first business day thereafter. Companies are responsible for complying with their legal obligations, and the Company should not rely on reminders from the Commission to ensure compliance.

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 Company admits that it did not know about or receive the annual report packet mailed by the Commission, and the Company has not yet filed its annual report. The facts, therefore, are undisputed, and the law is clear. Accordingly, the Company's request for a hearing is denied.

7 We will, however, construe the Company's submission as a request for mitigation and assess a reduced penalty. Because we have granted mitigation to similarly situated companies in their first year of operation, the Commission will exercise its discretion to reduce the penalty to \$250 conditioned on the Company filing its complete annual report and paying its regulatory and late payment fees no later than July 15, 2016. If the Company fails to file a complete annual report and pay its regulatory and late payment fees by that date, the remaining \$750 penalty will immediately become due and payable without further action by the Commission.

## ORDER

### THE COMMISSION ORDERS:

- 8 (1) Barnfather Properties, LLC's request for a hearing is DENIED.
- 9 (2) Barnfather Properties, LLC's request for mitigation is GRANTED, in part, and the penalty is reduced to \$250 conditioned on Barnfather Properties, LLC filing a complete annual report and paying its regulatory and late payment fees no later than July 15, 2016. If Barnfather Properties, LLC fails to complete its filing by that date, the remaining \$750 penalty will become due and payable on July 16, 2016, without further action by the Commission.
- 10 (3) The \$250 penalty is due and payable no later than July 25, 2016.

- 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.**