



STATE OF WASHINGTON

UTILITIES AND TRANSPORTATION COMMISSION

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August 17, 2016

Steven V. King, Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Dr. SW
P. O. Box 47250
Olympia, Washington 98504-7250

RE: *Washington Utilities and Transportation Commission v. International District Parking Association d/b/a Merchants Parking Association, Merchants Parking/Transia*
Commission Staff's Supplemental Response to Application for Mitigation of Penalties
Docket TE-160829

Dear Mr. King:

On July 6, 2016, the Washington Utilities and Transportation Commission (commission) issued Penalty Assessment TE-160829 against International District Parking Association d/b/a Merchants Parking Association, Merchants Parking/Transia (Transia) in the amount of \$36,900 for three hundred sixty-five acute and critical violations of WAC 480-30-221 Vehicle and Driver Safety Requirements, which requires charter and excursion carriers to comply with Title 49 Code of Federal Regulations (CFR) Part 382 – Controlled Substances and Alcohol Use and Testing, Part 383 – Commercial Driver's License Standards, Part 391 – Qualifications of Drivers, Part 395 – Hours of Service of Drivers and Part 396 – Inspection, Repair, and Maintenance.

On July 21, 2016 Transia filed with the commission its application for mitigation of penalties. Matthias Duoos, operations manager of Transia, admitted to the majority of violations noted in the penalty assessment, but asked that the penalties be reduced for the reasons set out in his response.

On August 1, 2016, commission staff (staff) issued a letter in response to Transia's request for mitigation of penalties. Staff would like to provide additional information pertaining to its August 1 letter.

- **Mitigation Request: CFR Part 391.45(a) – Using a driver not medically examined and certified.** Transia states that in very few occasions the medical examiner's certification has been allowed to lapse due to its drivers providing false information about appointments, drivers missing appointments, or from drivers not acting on management's

requests in a timely manner. Transia states that it now understands there is no grace period with regard to medical certification, and that its drivers cannot drive without it.

- a. Transia states that it informed Jonathan Duarte that his medical certificate would expire within the next month and provided him with a US HealthWorks form to have completed, however Mr. Duarte was not seen in time due to long wait times and went to a different doctor on his own time.
- b. Transia states that Najeh Mohammed was its maintenance coordinator and field mechanic, and would only drive a route for the company when no other driver was available. Transia states that Part B violations of the compliance review show that Mr. Mohammed drove on 1/04/2016 without a valid medical examiner's certificate, however the company's records show that his medical certificate was valid at that time.
- c. Transia states that Daniel Miller maintains a commercial driver's license (CDL), however he does not drive a CDL route. The company states that Mr. Miller's medical examiner's certificate was valid from 1/23/2015 to 1/23/2017.
- d. Transia states that Charles Harris returned to service in February of 2016, and was required to get a new medical examiner's certificate. The company states that the medical examiner certified Mr. Harris for a month and requested that he come back, however his appointment to get the new medical examiner's certificate was 3 days after the expiration date of the previous certificate.

Staff response: It is the company's responsibility to ensure that its drivers have current medical certification and to not allow its drivers to operate a vehicle when medical certification has expired.

- a. Jonathan Duarte drove on 33 occasions from 2/10/2016 to 3/25/2016 without being medically examined and certified prior to driving.
- b. The date of 1/04/2016 on Part B violations of the compliance review was a date that Najeh Mohammed drove to prove that he was a driver for Transia, and not a date he was without medical certification. Mr. Mohammed's medical examiner's certificate expired on 1/29/2016, and he drove on 64 occasions without a medical certificate from 2/01/2016 to 4/14/2016.
- c. Daniel Miller was marked as a CDL driver by the operations manager of Transia, Matthias Duoos. Mr. Miller's medical examiner's certificate is currently valid from 1/23/2015 to 1/23/2017, however Mr. Miller had a lapse in medical certification from 10/25/2014 to 1/23/2015 where he drove on 15 occasions.
- d. Charles Harris drove on 3 occasions from 3/18/2016 to 3/22/2016 without being medically examined and certified prior to driving.

The assessed penalty is \$11,500 for 115 occurrences of this violation. Staff recommends the penalty be reduced by half, for a total of \$5,750.

- **Mitigation Request: CFR Part 396.11(a) – Failing to require driver to prepare driver vehicle inspection report (DVIR).** Transia states that every driver was provided a DVIR for each vehicle driven on each day. The company states that it has since updated the DVIR form to include the missing line for the next shift driver to sign, and will now leave the DVIR in the vehicle for the next driver to sign before it is turned in. Transia

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states that it should not be penalized for something it understood to be correct, as the company last revised its DVIR form on 12/01/2011 and did not receive a violation during its 2012 compliance review conducted by the commission.

Staff response: Transia has added the missing line for the next shift driver to sign on its DVIR form, however not all of the specific safety items required of a DVIR are currently covered, such as steering mechanism, wheels and rims. Staff is unaware if Transia's DVIR form has changed since the 2012 compliance review conducted by the commission. If the company's DVIR form has remained unchanged since the 2012 compliance review, the violations of CFR Part 396.11(a) were missed by staff, as this is a first-time violation.

The assessed penalty is \$100 for one violation of this type. Staff recommends no mitigation of this penalty.

If you have any questions, please contact Jason Hoxit, Compliance Investigator, Transportation Safety, at 360-664-1320, or by e-mail at JHoxit@utc.wa.gov.

Sincerely,



David Pratt
Assistant Director, Transportation Safety

Enclosures