

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET TE-161144
SUNWEST ENTERPRISES, LLC d/b/a SUNWEST LIMOUSINE	ORDER 01 ORDER DENYING MITIGATION
in the amount of \$4,300	

BACKGROUND

- 1 On October 24, 2016, the Washington Utilities and Transportation Commission (Commission) assessed a \$4,300 penalty (Penalty Assessment) against Sunwest Enterprises, LLC d/b/a Sunwest Limousine (Sunwest Limousine or Company) for 29 violations of Washington Administrative Code (WAC) 480-15-570, which adopts by reference 49 C.F.R. Part 382 related to alcohol and controlled substances testing programs; 49 C.F.R. Part 383 related to commercial driver’s license requirements; 49 C.F.R. Part 387 related to liability insurance requirements; and 49 C.F.R. Part 391 related to driver qualifications.
- 2 On November 10, 2016, Sunwest Limousine filed a response to the Penalty Assessment admitting the violations and requesting a hearing. The Company did not provide any written explanation or documentation to support its request.
- 3 On November 16, 2016, the Commission issued a Notice Denying Request for Hearing and Notice of Opportunity to File a Written Response by November 23, 2016 (Notice). In the Notice, the Commission denied the Company’s request for hearing but construed its submission as a request for mitigation and allowed it to provide a written response to explain how the violations occurred and why it believes the penalty should be reduced. Sunwest Limousine did not respond.

DISCUSSION AND DECISION

- 4 Washington law requires auto transportation carriers to comply with federal safety requirements and undergo routine safety inspections. Violations discovered during safety

inspections are subject to penalties of \$100 per violation.¹ In some cases, Commission requirements are so fundamental to safe operations that the Commission will issue penalties for first-time violations.² Violations defined by federal law as “acute” or “critical” meet this standard.³ The Penalty Assessment includes a \$1,500 penalty for one acute violation of 49 C.F.R. Part 382.115(a); a \$700 penalty for seven critical violations of 49 C.F.R. Part 383.23(a); a \$500 penalty for five acute violations of 49 C.F.R. Part 383.37(a); a \$300 penalty for three acute violations of 49 C.F.R. Part 387.7; a \$1,200 penalty for 12 critical violations of 49 C.F.R. Part 391.45(a); and a \$100 penalty for one critical violation of 49 C.F.R. Part 391.51(a).

5 The Commission considers several factors when entertaining a request for mitigation, including whether the company introduces new information that may not have been considered in setting the assessed penalty amount, or explains other circumstances that convince the Commission that a lesser penalty will be equally or more effective in ensuring the company’s compliance.⁴

6 Here, the Company failed to provide any explanation for the violations at issue despite having multiple opportunities to do so. Moreover, each of the violations cited in the Penalty Assessment is potentially harmful to the public, and therefore warrants penalties for first-time violations absent the introduction of new and compelling evidence. Accordingly, we find that Sunwest Limousine violated WAC 480-15-570 on 29 occasions and conclude that the Company was appropriately penalized \$4,300 for those violations.

ORDER

THE COMMISSION ORDERS:

7 (1) Sunwest Enterprises, LLC d/b/a Sunwest Limousine’s request for mitigation of the \$4,300 penalty is DENIED.

¹ See RCW 81.04.405.

² Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission ¶12 (Jan. 7, 2013) (Enforcement Policy).

³ 49 C.F.R. § 385, Appendix B.

⁴ Enforcement Policy ¶19.

8 (2) The penalty is due and payable no later than December 9, 2016.

9 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 November 30, 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.**