



STATE OF WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION  
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(360) 664-1160 • TTY (360) 586-8203

June 30, 2017

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

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REPORTS MANAGEMENT  
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STATE OF WASH.  
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Re: *Washington Utilities and Transportation Commission v. ALCLS, LLC*  
*1918 South Markwell Court*  
*Spokane, WA 99223*  
Commission Staff's Response to Application for Mitigation of Penalties  
Docket TE-170713

Dear Mr. King:

In April 2017, Motor Carrier Safety Investigator Sandi Yeomans conducted a compliance review investigation of ALCLS, LLC, (ALCLS). A compliance review is an in-depth examination of the motor carrier's compliance with regulations that the Federal Motor Carrier Safety Administration has identified as "acute" or "critical."<sup>1</sup> Acute regulations are identified where non-compliance is so serious as to require immediate corrective actions regardless of the overall safety posture of the carrier. Violations of critical regulations are generally indicative of breakdowns in a carrier's management controls. Non-compliance with acute regulations and patterns of non-compliance with critical regulations are quantitatively linked to inadequate management controls and unusually higher than average accident rates.<sup>2</sup> Ms. Yeomans found 19 violations, including repeat occurrences, 17 of which were first-time violations.

The Commission's enforcement policy provides that some requirements are so critical to safe operations that the Commission may issue penalties for a first-time violation, even if staff has not previously provided technical assistance on specific issues.<sup>3</sup> Of the 19 violations found, 12 were of critical regulations.

<sup>1</sup> Title 49 CFR Part 385, Appendix B – Explanation of Safety Rating Process

<sup>2</sup> *Id.*

<sup>3</sup> Docket A-120061 – Enforcement Policy of the Washington Utilities and Transportation Commission, Section V.

On June 20, 2017, the Commission issued a penalty assessment under docket TE-170713 against ALCLS in the amount of \$1,600 for 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) Parts 382 and 395, as follows:

- **One violation of Title 49 CFR Part 382.115(a) – Failing to implement an alcohol and/or controlled substances testing program on the date the employer begins commercial motor vehicle operations.**
- **Eleven violations of Title 49 CFR Part 395.8(a) – Failing to require a driver to prepare a record of duty status using appropriate method.**

On June 28, 2017, ALCLS filed with the Commission an application for mitigation. In the application, company owner Rose Zaring admitted the violations, stated that the violations have been corrected and that the penalty represents an extreme financial hardship for the company. Ms. Zaring provided a response to both violations cited in the penalty assessment.

**Mitigation request: Title 49 CFR Part 382.115(a) – Failing to implement an alcohol and/or controlled substances testing program on the date the employer begins commercial motor vehicle operations.** Ms. Zaring admitted the violation, and stated she withdrew her company from its enrollment in an FMCSA-compliant controlled substances testing program because she had planned on retiring and selling the company. Immediately after the compliance review appointment, Ms. Zaring re-enrolled her company in an approved program, and recently provided evidence of such to staff.

Staff response: Staff understands the company's intentions, however, as long as the company maintains its charter certificate it must comply with all applicable state and federal regulations. Controlled substances and alcohol testing is a critical requirement for the safety of the company's passengers as well as other highway users. Nevertheless, staff appreciates the company's willingness to admit the violation and provide evidence of her re-enrollment in an approved testing program. In consideration of the company's financial position staff recommends mitigation of the \$1,500 penalty to \$500.

**Mitigation request: Title 49 CFR Part 395.8(a) – Failing to require a driver to prepare a record of duty status using appropriate method. (11 occurrences).** As the sole driver in the company, Ms. Zaring believed it was not necessary to record her duty status. She has now begun to keep these records.

Staff response: Staff appreciates the company's willingness to admit these violations and immediately bring its practices into compliance. In this case the Commission assessed a penalty of \$100 for a single violation of this regulation. Staff recommends no further mitigation of this penalty.

**Staff recommendation:** ALCLS is a small company, with one commercial motor vehicle and one driver. The company reported \$39,400 in gross revenue in 2016 and 5,494 miles traveled.

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Staff appreciates the company's willingness to admit and correct these critical violations. In consideration of the company's actions and financial situation, staff recommends mitigation of the \$1,600 penalty to \$600.

If you have any questions, please contact Mike Turcott, Compliance Investigator, Transportation Safety, at (360) 664-1174 or by e-mail at [miturcot@utc.wa.gov](mailto:miturcot@utc.wa.gov).

Sincerely,



David Pratt  
Assistant Director, Transportation Safety