

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET TC-190879
ROCKET TRANSPORTATION LLC, d/b/a ROCKET TRANSPORTATION	ORDER 01
in the amount of \$1,300	DENYING MITIGATION

BACKGROUND

- 1 On October 28, 2019, the Washington Utilities and Transportation Commission (Commission) assessed a \$1,300 penalty (Penalty Assessment) against Rocket Transportation LLC, d/b/a Rocket Transportation, (Rocket Transportation or Company) for 16 violations of Washington Administrative Code (WAC) 480-30-221, which adopts by reference Title 49 Code of Federal Regulations (C.F.R.).¹ The Penalty Assessment includes:
 - A \$1,100 penalty for 11 violations of 49 C.F.R. § 391.45(a) for using a driver not medically examined and certified.
 - A \$100 penalty for two violations of 49 C.F.R. § 391.51(b)(2) for failing to maintain inquiries into driver’s driving record in driver’s qualification file.
 - A \$100 penalty for three violations of 49 C.F.R. § 396.17(a) for using a commercial motor vehicle that was not periodically inspected.
- 2 On October 30, 2019, Rocket Transportation submitted a corrective action safety plan, acknowledging the violations and describing the measures it has taken to prevent violations from reoccurring.
- 3 On November 8, 2019, the Company filed with the Commission an application for mitigation of penalties (Application). In the Application, Rocket Transportation admits

¹ WAC 480-30-221 adopts by reference sections of Title 49 C.F.R. Accordingly, Commission safety regulations with parallel federal rules are hereinafter referenced only by the applicable provision of 49 C.F.R.

the violations and asks that the penalty be reduced based on the written information it provided.

- 4 On November 14, 2019, Commission staff (Staff) filed a response recommending the Commission deny the Application.

DISCUSSION AND DECISION

- 5 Washington law requires auto transportation companies to comply with federal safety requirements and undergo routine safety inspections. Violations discovered during safety inspections are subject to penalties of \$100 per violation.² In some cases, Commission requirements are so fundamental to safe operations that the Commission will issue penalties for first-time violations.³ Violations defined by federal law as “critical,” which are indicative of a breakdown in a carrier’s management controls, meet this standard.⁴
- 6 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.⁵ The Commission also considers whether the violations were promptly corrected, a company’s history of compliance, and the likelihood the violation will recur.⁶ We address each violation category in turn.
- 7 **49 C.F.R. § 391.45(a).** The Penalty Assessment includes a \$1,100 penalty for 11 violations of 49 C.F.R. § 391.45(a) because the Company allowed a driver who was not medically examined and certified to drive on 11 occasions between March 10 and September 10, 2019. In its Application, the Company stated that it believed the driver had a medical certificate and that the oversight was due to the departure of its operations manager, office manager, and dispatcher. The Company further stated that it now has procedures in place to prevent reoccurrence.

² See RCW 81.04.405.

³ Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission ¶12 (Jan. 7, 2013) (Enforcement Policy).

⁴ 49 C.F.R. § 385, Appendix B.

⁵ Enforcement Policy ¶19.

⁶ Enforcement Policy ¶15.

8 Staff recommends the Commission deny mitigation of this penalty because, while the Company has corrected the violation and taken measures to prevent reoccurrence, this is a repeat violation.

9 On November 22, 2017, the Commission entered Order 01 in consolidated Dockets TC-171022 and TC-171023. Order 01 assessed a reduced penalty of \$3,400 for 69 violations of 49 C.F.R. § 391.45(a) against Rocket Transportation, and further suspended a \$1,750 portion of the penalty subject to the condition that the Company refrain from incurring any repeat violations. Despite being afforded substantial leniency, the Company allowed the violations at issue here to occur. In light of these circumstances, we find that an escalated penalty is appropriate. Accordingly, we agree with Staff's recommendation and decline to mitigate this portion of the penalty.

10 **49 C.F.R. § 391.51(b)(2).** The Penalty Assessment includes a \$100 penalty for two violations of 49 C.F.R. § 391.51(b)(2) because Rocket Transportation failed to maintain driving record inquiries in two drivers' qualification files. In the Application, Rocket Transportation stated that it now has an online account through the Department of Licensing to obtain driving records and has updated its new hire procedures to include retention of driver release forms for future inquiries.

11 Staff recommends no mitigation of this portion of the penalty. The Commission could have assessed a \$200 penalty, but, because these are first-time violations, assessed a "per category" rather than "per violation" penalty. We agree and find that no further penalty reduction is warranted.

12 **49 C.F.R. § 396.17(a).** The Penalty Assessment includes a \$100 penalty for three violations of 49 C.F.R. § 396.17(a) because the Company used a motor vehicle that was not periodically inspected. The Company states that has corrected this violation and now has a vehicle maintenance coordinator to prevent reoccurrence of this violation.

13 Staff recommends no mitigation of this penalty. The Commission could have assessed a \$300 penalty, but, because these are first-time violations, assessed a "per category" rather than "per violation" penalty. We agree and find that no further penalty reduction is warranted.

FINDINGS AND CONCLUSIONS

14 (1) The Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, and practices of public service

companies, including auto transportation companies, and has jurisdiction over the parties and subject matter of this proceeding.

- 15 (2) Rocket Transportation is an auto transportation company subject to Commission regulation.
- 16 (3) Rocket Transportation violated 49 C.F.R. § 391.45(a) when it allowed its driver to drive without being medically examined and certified on 11 occasions between March 10 and September 10, 2019.
- 17 (4) Rocket Transportation should be penalized \$1,100 for 11 violations of 49 C.F.R. § 391.45(a).
- 18 (5) Rocket Transportation violated 49 C.F.R. § 391.51(b)(2) two times when it failed maintain driving records inquiries in two drivers' qualification files.
- 19 (6) Rocket Transportation should be penalized \$100 for two violations of 49 C.F.R. § 391.51(b)(2).
- 20 (7) Rocket Transportation violated 49 C.F.R. § 391.17(a) when it failed to have an annual inspection performed on three of its commercial motor vehicles.
- 21 (8) Rocket Transportation should be penalized \$100 for three violations of 49 C.F.R. § 396.17(a).
- 22 (9) The Commission should assess a total penalty of \$1,300 for 16 violations of WAC 480-30 and Title 49 C.F.R.

ORDER

THE COMMISSION ORDERS:

- 23 (1) Rocket Transportation LLC d/b/a Rocket Transportation's request for mitigation of the \$1,300 penalty is DENIED.
- 24 (2) The penalty is due and payable no later than December 4, 2019.

25 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 20, 2019.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK L. JOHNSON
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.