

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Penalty Assessment Against	DOCKET TC-200658
SHUTTLE EXPRESS, INC.,	ORDER 01
in the amount of \$1,800	GRANTING MITIGATION

**BACKGROUND**

1 On August 17, 2020, the Washington Utilities and Transportation Commission (Commission) issued a \$1,800 penalty (Penalty Assessment) against Shuttle Express, Inc., (Shuttle Express or Company). The Commission found that Shuttle Express violated Washington Administrative Code (WAC) 480-30-222. The Penalty Assessment includes:

- A \$100 penalty for eight violations of WAC 480-30-222(1) for failing to ensure all vehicles have been properly inspected by a mechanic who has been certified by the National Institute for Automotive Service Excellence (ASE).
- A \$100 penalty for eight violations of WAC 480-30-222(2) for failing to ensure that drivers completed both pre-trip and post-trip inspections each day the vehicles were operated.
- A \$100 penalty for eight violations of WAC 480-30-222(4)(b) for failing to obtain a complete driving record from the Washington Department of Licensing.
- A \$1,500 penalty for 15 violations of WAC 480-30-222(4)(e) for failing to ensure drivers were medically examined and certified prior to operating a passenger carrying vehicle.

2 On August 27, 2020, Shuttle Express requested mitigation of the penalty. Shuttle Express submitted that it admitted the violations, desired to be in full compliance, and took measures to ensure the violations would not recur.

3 On August 31, 2020, Commission staff (Staff) filed its reply.<sup>1</sup> Because Shuttle Express corrected the violations at issue and put processes and procedures into place to prevent reoccurrence of these violations, Staff recommends that the penalty be reduced to \$1,000.

### DISCUSSION AND DECISION

4 Washington law requires passenger 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.<sup>2</sup> In some cases, Commission requirements are so fundamental to safe operations that the Commission will issue penalties for first-time violations.<sup>3</sup>

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.<sup>4</sup> The Commission also considers whether the violations were promptly corrected, a company's history of compliance, and the likelihood the violation will recur.<sup>5</sup> We address each violation category below.

6 **WAC 480-30-222(1).** The Penalty Assessment includes a \$100 penalty for eight violations of WAC 480-30-222(1) because Shuttle Express failed to ensure that its vehicles were properly inspected by an ASE-certified mechanic. The Company responded that it has corrected the violations and taken steps to prevent further occurrences.

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<sup>1</sup> In formal proceedings, such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. RCW 34.05.455.

<sup>2</sup> See RCW 81.04.405.

<sup>3</sup> Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission ¶ 12, 15 (Jan. 7, 2013) (Enforcement Policy).

<sup>4</sup> Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission (January 7, 2013).

<sup>5</sup> Enforcement Policy ¶19.

7 Staff recommends no mitigation of this portion of the penalty because the Company was assessed a single \$100 penalty for eight separate violations of the regulation at issue.

8 We agree with Staff and decline to mitigate this portion of the penalty. By assessing a \$100 “per category” penalty for these eight violations, the Penalty Assessment assessed a substantially reduced penalty. We thus conclude that no further reduction is warranted.

9 **WAC 480-30-222(2).** The Penalty Assessment includes a \$100 penalty for eight violations of WAC 480-30-222(2) for failing to ensure that drivers completed both pre-trip and post-trip inspections each day the vehicles were operated. The Company responded that it has corrected the violations and taken steps to prevent further occurrences.

10 Staff recommends against mitigation because the Company was assessed a single \$100 penalty for eight separate violations of the regulation at issue.

11 We agree with Staff and decline to mitigate this portion of the penalty. By assessing a \$100 “per category” penalty for these eight violations, the Penalty Assessment assessed a substantially reduced penalty. We thus conclude that no further reduction is warranted.

12 **WAC 480-30-222(4)(b).** The Penalty Assessment includes a \$100 penalty for eight violations of WAC 480-30-222(4)(b) for failing to obtain a complete driving record for its drivers from the Washington Department of Licensing. The Company responded that it has corrected the violations and has procedures in place to prevent further occurrences.

13 Staff recommends against mitigation because the Company was assessed a single \$100 penalty for eight separate violations of the regulation at issue.

14 We agree with Staff and decline to mitigate this portion of the penalty. By assessing a \$100 “per category” penalty for these eight violations, the Penalty Assessment assessed a substantially reduced penalty. We thus conclude that no further reduction is warranted.

15 **WAC 480-30-222(4)(e).** The Penalty Assessment includes a \$1,500 penalty for fifteen violations of WAC 480-30-222(4)(e) for failing to ensure drivers were medically examined and certified prior to operating a passenger carrying vehicle. The Company responded that it has corrected the violations and has procedures in place to prevent further occurrences.

16 Staff recommends the penalty be reduced to \$700.

17 We agree with Staff’s recommendation and mitigate this portion of the penalty to \$700. The Company took swift corrective actions, including immediately correcting the

violation and implementing new policies to prevent it from recurring. Accordingly, we find that a lesser penalty is sufficient to ensure future compliance.

### FINDINGS AND CONCLUSIONS

- 18 (1) The Commission is an agency of the State of Washington, vested by statute with authority to regulate passenger transportation companies, and the Commission has jurisdiction over the parties and subject matter of this proceeding.
- 19 (2) Shuttle Express, Inc., is a transportation company subject to Commission regulation.
- 20 (3) Shuttle Express, Inc., violated WAC 480-30-222(1) by failing to ensure that eight of its vehicles were properly inspected by a mechanic who was certified by the National Institute for Automotive Service Excellence.
- 21 (4) Shuttle Express, Inc., should be penalized \$100 for eight violations of WAC 480-30-222(1).
- 22 (5) Shuttle Express, Inc., violated WAC 480-30-222(2) by failing to ensure that eight of its drivers completed both pre-trip and post-trip inspections each day vehicles were operated.
- 23 (6) Shuttle Express, Inc., should be penalized \$100 for eight violations of WAC 480-30-222(2).
- 24 (7) Shuttle Express, Inc., violated WAC 480-30-222(4)(b) by failing to obtain complete driving records from the Washington Department of Licensing for eight of its drivers.
- 25 (8) Shuttle Express, Inc., should be penalized \$100 for eight violations of WAC 480-30-222(4)(b).
- 26 (9) Shuttle Express, Inc., violated WAC 480-30-222(4)(e) by failing to ensure drivers were medically examined and certified prior to operating a passenger carrying vehicle on 15 occasions.
- 27 (10) Shuttle Express, Inc., should be penalized \$700 for 15 violations of WAC 480-30-222(4)(e).

**ORDER**

THE COMMISSION ORDERS:

- 28 (1) Shuttle Express, Inc.'s request for mitigation of the \$1,800 penalty is GRANTED,  
in part, and the penalty is reduced to \$1,000.
- 29 (2) The \$1,000 penalty is due and payable no later than October 20, 2020.
- 30 The Secretary has been delegated authority to enter this order on behalf of the  
Commissioners under WAC 480-07-903(2)(e).

DATED at Olympia, Washington, and effective October 5, 2020.

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.**