

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND)	DOCKET TN-110087
TRANSPORTATION COMMISSION,)	
)	
Complainant,)	ORDER 01
)	
v.)	
)	INITIAL ORDER MITIGATING
YELM ADULT COMMUNITY)	PENALTY
CENTER,)	
)	
Respondent.)	
)	
.....)	

1 *Synopsis: This is an Administrative Law Judge’s Initial Order that is not effective unless approved by the Washington Utilities and Transportation Commission or allowed to become effective as described in the notice at the end of this Order. This Order would mitigate in full a penalty of \$100 imposed against Yelm Adult Community Center on January 19, 2011, for violation of rules governing driver certification.*

MEMORANDUM

2 On January 19, 2011, the Washington Utilities and Transportation Commission (Commission) assessed a \$100 penalty against Yelm Adult Community Center for violations of WAC 480-31-130 – Operation of motor vehicles, which requires private, non-profit transportation providers to comply with Title 49, Code of Federal Regulations (CFR), including Part 391, which governs qualification of drivers. The community center was penalized for one violation of WAC 480-31-130, which adopts by reference Title 49, CFR Part 391.45(b)(1) – Using a driver not medically examined and certified during the preceding 24 months. Commission Staff found that driver Robert Mann drove with an expired medical card on September 10, 2010.

3 On February 1, 2011, Yelm Adult Community Center filed an Application for Mitigation of Penalties (Mitigation Request), waiving a hearing and asking for an administrative decision on the information it presented. In its Mitigation Request,

Yelm Adult Community Center does not dispute that the violation occurred. The community center states that the expired medical card was an oversight and that the driver went for a medical examination the day after Commission Staff's inspection and obtained valid medical certification. The community center has had no previous medical card violations. Upon learning of its violation, the Yelm Adult Community Center immediately took measures to ensure future compliance by voluntarily instituting specific internal procedures related to medical card verification.

- 4 It is the Transportation Safety section's policy to recommend penalties for any violations related to keeping the public safe from unqualified drivers, such as drivers without medical certification. However, Staff supports a full mitigation of the penalty against Yelm Adult Community Center for the reasons stated in the preceding paragraph of this Order.
- 5 The Commission determines, consistent with Staff's review and response supporting full mitigation of the penalty, that the public interest does not require in this instance any punitive action against Yelm Adult Community Center and there is no apparent need to use the threat of a suspended penalty to gain compliance with the Commission's rules that protect public safety. The Commission determines accordingly that it should accept Staff's recommendation to grant full mitigation.

ORDER

THE COMMISSION ORDERS THAT:

- 6 (1) The penalty of \$100 assessed against Yelm Adult Community Center by Notice issued January 19, 2011, is mitigated in full and no further action is required by Yelm Adult Community Center at this time.
- 7 (2) The Commission retains jurisdiction to enforce the terms of this Order.

Dated at Olympia, Washington, and effective February 18, 2011.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

DENNIS J. MOSS
Administrative Law Judge

NOTICE TO THE PARTIES

This is an Initial Order. The action proposed in this Initial order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order, and you would like the Order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order, any party may file a Petition to Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such an answer.

RCW 80.01.060(3) provides that an initial order will become final without further Commission action if no party seeks administrative review of the initial order and if the Commission fails to exercise administrative review on its own motion. You will be notified if this order becomes final.

One copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). An Original and (8) copies of any Petition or Answer must be filed by mail delivery to:

Attn: David W. Danner, Executive Director and Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
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Olympia, WA 98504-7250