

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment)	DOCKET TC-121565
Against)	
)	ORDER 01
BML INVESTMENTS, LLC d/b/a)	
WENATCHEE VALLEY SHUTTLE)	ORDER DENYING MITIGATION
)	
in the amount of \$2,000)	
.....)	

1 **Penalty.** On October 4, 2012, the Washington Utilities and Transportation Commission (Commission) assessed a penalty in Docket TC-121565 in the amount of \$2,000 against BML Investments, LLC d/b/a Wenatchee Valley Shuttle (BML or Company), for multiple violations of a Commission order suspending the Company’s certificate and additional violations of Washington Administrative Code (WAC) 480-30-221, which requires passenger transportation companies to comply with Title 49, Code of Federal Regulations (CFR), including part 391, which governs qualifications of drivers. In particular, this rule prohibits passenger transportation companies from using drivers who have not been medically examined and certified.

2 The Commission alleged that BML violated Order 01 in Docket TC-121120, which suspended its auto transportation certificate effective June 25, 2012, by continuing to operate on 13 different dates before the suspension was lifted. The Commission also alleged that all of the Company’s seven drivers drove without the required medical certificate in place. The Commission imposed a penalty of \$100 per violation, for a total penalty of \$2,000.

3 **Mitigation Request.** On October 12, 2012, BML responded to the Commission, admitting the violations but seeking to have the penalty reduced. The Company explained its disagreement with the Commission’s suspension of its certificate for lack of insurance and confessed its ignorance of the suspension being imposed due to only opening its mail once a week. Finally, BML admitted to being “totally unaware that all drivers need a medical card.” Nevertheless, the Company contends that its immediate actions to obtain medical cards for every driver merits a waiver or reduction of the penalty imposed.

- 4 **Commission Staff Opposition to Mitigation.** Commission Staff (Staff) filed a Response on October 22, 2012, opposing the Company's request for mitigation. Staff notes that BML disputes not only the underlying suspension of its certificate for failing to timely supply the required insurance information, but also seeks leniency for its ignorance with regard to the requirement for all drivers to hold a medical card. Staff asks that the company's request be denied.
- 5 Commission records demonstrate that BML obtained an insurance binder but failed to subsequently file a Form E insurance certificate. The Commission suspended the Company's certificate for this reason and reinstated it several weeks later when BML filed its Form E. Staff argues that the Company's continued operation during the suspension period merits a penalty that should not be mitigated. Staff also opposes any mitigation for BML's use of drivers without proper medical certification.
- 6 **Commission Decision.** The Commission denies BML's request for mitigation. Public safety is the Commission's highest priority. Regulated companies are responsible for complying with all of the Commission's rules and regulations. Our rules requiring auto transportation companies to maintain their insurance and employ only medically qualified drivers protect the public. BML's explanations do not persuade us to reduce the penalties imposed for these public safety violations.
- 7 The Company knew or should have known of the Commission order suspending its operating certificate. BML's statement that it opens its mail only once per week does not explain why the Company failed to file the required Form E in the two month period after obtaining their original insurance binder. Nor does it explain why BML continued to operate for nearly a month after the Commission suspended its certificate. Violating a Commission order is a serious matter and BML offers no reasonable excuse.
- 8 Further, the Company knew or should have known of the requirement for all commercial drivers to hold a current medical certificate. As pointed out in Staff's response, BML received at least two copies of a safety manual explaining all of the requirements to operate in the passenger transportation industry. The Company's use of drivers who were not medically examined or certified demonstrates a failure to

review the manual and abide by our governing regulations. BML's claims of ignorance are not a reason for us to mitigate the penalty imposed.

9 The original \$2,000 penalty will not be reduced. That penalty is due and payable no later than November 30, 2012.

10 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 October 29, 2012.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER
Executive Director and Secretary

NOTICE TO PARTIES: This is an order delegated to the Executive Secretary for decision. Under WAC 480-07-904(3), you may seek Commission review of this decision. In addition to serving you a copy of the decision, the Commission will post on its Internet Web site for at least 14 days a listing of all matters delegated to the Executive Secretary for decision under WAC 480-07-904(1). You must file a request for Commission review of this order no later than fourteen (14) days after the date the decision is posted on the Commission's Web site. The Commission will schedule your request for review for consideration at a regularly scheduled open meeting. The Commission will notify you of the time and place of the open meeting at which the Commission will review the order.

The Commission will grant a late-filed request for review only on a showing of good cause, including a satisfactory explanation of why the person did not timely file the request. A form for late-filed requests is available on the Commission's Web site.