

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment)	DOCKET TR-140999
Against)	
)	ORDER 01
BALLARD TERMINAL RAILROAD)	
COMPANY)	ORDER GRANTING
)	MITIGATION TO \$250
in the amount of \$1,000)	
.....)	

BACKGROUND

- 1 Washington law requires railroad companies to file annual reports and pay regulatory fees by May 1 of each year. WAC 480-62-300. On February 28, 2014, the Washington Utilities and Transportation Commission (Commission) mailed annual report and regulatory fee packets to all regulated railroad companies. The forms included a reminder that companies must file their annual reports and pay their regulatory fees by May 1, 2014, or face penalties of \$100 for each violation of Commission rules. In the case of continuing violations, each day’s continuance is a separate violation. RCW 80.04.405.
- 2 Ballard Terminal Railroad Company did not file its annual report on May 1, 2014, and had not made that filing by May 15. On June 4, the Commission assessed a penalty of \$1,000 against Ballard Terminal Railroad Company, calculated as \$100 per business day from May 1 to May 15.
- 3 On June 16, 2014, Ballard Terminal Railroad Company filed its annual report and paid its regulatory and late payment fees.
- 4 On June 17, 2014, Ballard Terminal Railroad Company responded to the Commission’s penalty assessment admitting the violations and requesting mitigation of the penalty based on the written information provided. The Company explained that its parent company did not received the annual report form, and the filing was therefore overlooked until the penalty was served.

5 On July 1, 2014, Commission Staff (Staff) filed a response recommending a penalty
reduction to \$25 per day, or \$250, because the Company had no violations of WAC
480-62-300 in the past five years.

6 On July 9, 2014, after receiving Staff's recommendation, the Company remitted a
\$250 payment to the Commission.

DISCUSSION

7 WAC 480-62-300 requires regulated railroad companies to file annual reports and pay
regulatory fees by May 1 of each year. Companies are responsible for complying
with their legal obligations, and the Company should have ensured its annual report
was timely filed. Moreover, the Company should not rely on reminders from the
Commission to ensure compliance.

8 The Commission nevertheless agrees with Staff's recommendation. The Commission
may consider a number of factors when entertaining a request for mitigation,
including a company's history of compliance, whether the violation was promptly
corrected, and the likelihood the violation will recur.¹ This is Ballard Terminal
Railroad Company's only violation of WAC 480-15-480 in the past five years, and
the Company has since filed its annual report. Given the Company's history of
compliance, the violation is unlikely to recur. Because we have granted mitigation to
other companies in similar circumstances, the Commission will exercise its discretion
to reduce the penalty to \$250.

ORDER

THE COMMISSION ORDERS:

9 (1) The request of Ballard Terminal Railroad Company for mitigation of the
\$1,000 penalty is GRANTED in part, and the penalty is reduced to \$250.

¹ Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation
Commission (January 7, 2013).

10 (2) The penalty was paid in full on July 9, 2014.

11 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 July 16, 2014.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

STEVEN V. KING
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. 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 website.