

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment	)	DOCKET TE-141046
Against	)	
	)	ORDER 01
AGYEN, LINDA T.	)	
	)	ORDER GRANTING
in the amount of \$1,000	)	MITIGATION TO \$200
.....	)	

**BACKGROUND**

- 1 Washington law requires charter and excursion carriers to file annual reports by May 1 of each year. WAC 480-30-071. On November 23, 2013, the Washington Utilities and Transportation Commission (Commission) mailed a letter to all charter and excursion carriers explaining that it recently adopted a rule changing the annual report due date for those carriers from December 31 to May 1. Regulatory fees remain due on December 31. On February 28, 2014, the Commission mailed annual report forms to all charter and excursion carriers. The forms included a reminder that companies must file their annual reports 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 Linda T. Agyen timely paid its regulatory fee, but did not file its annual report on May 1, 2014, and had not made that filing by May 15. On May 23, the Commission assessed a penalty of \$1,000 against Linda T. Agyen, calculated as \$100 per business day from May 1 to May 15.
  
- 3 On June 6, 2014, the Company filed its annual report, and 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 it was unclear about which forms were due at the end of the year, and mistakenly believed that all required filings were made when the regulatory fee was paid in December 2013. The Company also stated that imposition of the penalty would create a financial hardship.

- 4 On June 16, 2014, Commission Staff (Staff) filed a response recommending a penalty reduction to \$200 because the Company timely paid its regulatory fee and has no prior violations of WAC 480-30-071. Staff also noted that the Commission recently adopted new rules requiring annual reports for charters and excursions to be filed by May 1, while the regulatory fees remain due on December 31.

### **DISCUSSION**

- 5 WAC 480-30-071 requires charter and excursion carriers to file annual reports by May 1 of each year. Companies are responsible for being aware of applicable Commission rules and complying with their legal obligations. Accordingly, the Company should have been aware of the need to file an annual report by May 1, particularly when the Commission sent forms and a reminder on February 28.
- 6 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, the likelihood the violation will recur, and a company's intrastate revenue.<sup>1</sup> This is Linda T. Agyen's first violation of WAC 480-30-071. The Company timely paid its regulatory fee, and has since filed its annual report. Additionally, the Company has been active since 2012, and the Commission recently adopted rules that changed the filing procedure for 2014; given the Company's compliance prior to the rule change, the violation is not likely to recur. Finally, the Company stated that the penalty would create a financial hardship. The Commission's goal is to obtain compliance, not create an insurmountable financial burden for a small company. In light of these factors, the Commission will exercise its discretion to reduce the penalty to \$200.

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

**ORDER**

THE COMMISSION ORDERS:

- 7 (1) The request of Linda T. Agyen for mitigation of the \$1,000 penalty is  
GRANTED in part, and the penalty is reduced to \$200.
- 8 (2) The penalty is due and payable no later than August 15, 2014.
- 9 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 August 1, 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.