

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment)	DOCKET TE-141057
Against)	
)	ORDER 01
COGGINS, DUANE)	
)	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 Duane Coggins did not file its annual report on May 1, 2014, and had not made that filing by May 15. On May 27, the Commission assessed a penalty of \$1,000 against Duane Coggins, calculated as \$100 per business day from May 1 to May 15.
- 3 On June 9, 2014, Duane Coggins 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 did not receive the annual report forms, but responded as soon as it received the penalty assessment.
- 4 The Company timely paid its regulatory fee and ultimately filed its annual report on June 9, 2014.

- 5 On June 20, 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 infractions 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.
- 6 On June 30, 2014, after receiving Staff's response to its mitigation request, Duane Coggins remitted a \$200 payment to the Commission.

DISCUSSION

- 7 WAC 480-30-071 requires charter and excursion carriers to file annual reports by May 1 of each year. Companies are responsible for complying with their legal obligations, and the Company should have been aware of the need to file an annual report, particularly given the Commission's reminders. The Company should not, however, rely on the Commission's notifications 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 Duane Coggins'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 regulated since 2006; given its history of compliance, the violation is not likely to recur. While we are not willing to waive the penalty in its entirety, the Commission will exercise its discretion to reduce the penalty to \$200.

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

ORDER

THE COMMISSION ORDERS:

- 9 (1) The request of Duane Coggins for mitigation of the \$1,000 penalty is GRANTED in part, and the penalty is reduced to \$200.
- 10 (2) The penalty was paid in full on June 30, 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 8, 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.