

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment)	DOCKET TE-150991
Against)	
)	ORDER 01
2C CAPTAINS, INC.)	
)	ORDER DENYING REQUEST FOR
in the amount of \$1,000)	HEARING; GRANTING
)	MITIGATION TO \$250
.....)	

BACKGROUND

- 1 Washington law requires charter and excursion carriers to file annual reports and pay regulatory fees by May 1 of each year. WAC 480-30-071. On February 27, 2015, the Washington Utilities and Transportation Commission (Commission) mailed annual report and regulatory fee packets to all charter and excursion carriers. The forms included a reminder that companies must file their annual reports and pay their regulatory fees by May 1, 2015, 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 2C Captains, Inc. (2C Captains or Company) did not file its annual report by May 1, 2015, and had not made that filing by May 15. On June 8, the Commission assessed a penalty of \$1,000 against 2C Captains, calculated as \$100 per business day from May 1 to May 15.
- 3 On June 10, 2015, 2C Captains responded to the Commission’s penalty assessment. The Company contested the violations and requested a hearing. In its request, the Company explained that it never received an annual report form from the Commission. The Company also noted that it changed its mailing address and began using a post office box due to mail theft.
- 4 On June 30, 2015, 2C Captains filed its annual report. The Company timely paid its regulatory fee on December 16, 2014.
- 5 On June 25, 2015, Commission staff (Staff) filed a response recommending the Commission a reduced penalty of \$25 per day, or \$250, because the Company has no prior violations of WAC 480-30-071.

DISCUSSION

6 WAC 480-30-071 requires charter and excursion carriers 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 not rely on reminders from the Commission to ensure compliance. Moreover, it is the Company's responsibility to advise the Commission of a change in address.

7 As a preliminary matter, we deny the Company's request for a hearing. The Commission's penalty assessment advised the Company that a request for hearing will only be granted if material issues of law or fact require consideration of evidence and resolution in hearing. Here, no issues of law or fact are in dispute. The Commission mails annual report packets as a courtesy; whether the Company received the packet has no bearing on its requirement to file a report by May 1. Moreover, the Company admitted in its response that it had not yet filed its annual report. The facts, therefore, are undisputed, and the law is clear. Accordingly, the Company's request for a hearing is denied.

8 We will, however, construe the Company's submission as a request for mitigation and assess a reduced penalty. The Commission may consider a number of factors when entertaining a request for mitigation, including whether the violation was promptly corrected and the likelihood the violation will recur.¹ This is 2C Captains' first violation of WAC 480-30-071, and the Company timely paid its regulatory fee and has since filed its annual report. In addition, the Company has been regulated since 2007; given its history of compliance, the violation is not likely to recur. In light of these factors, the Commission will exercise its discretion to reduce the penalty to \$250.

ORDER

THE COMMISSION ORDERS:

- 9 (1) 2C Captains, Inc.'s request for a hearing is DENIED.
- 10 (2) 2C Captains, Inc.'s contest of the violations is DENIED.
- 11 (2) 2C Captains, Inc.'s request for mitigation 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).

12 (3) The \$250 penalty is due and payable no later than July 13, 2015.

13 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 2, 2015.

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.