

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET TE-160682
BAD MAGICK, LLC	ORDER 01
in the amount of \$1,000	ORDER GRANTING MITIGATION TO \$250

BACKGROUND

- 1 On February 29, 2016, the Washington Utilities and Transportation Commission (Commission) mailed annual report and regulatory fee forms to all charter and excursion carriers. The forms included a reminder that companies must file their annual reports and pay their regulatory fees by Monday, May 2, 2016, 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 Bad Magick, LLC (Bad Magick or Company) did not file its annual report on May 2, 2016, and had not made that filing by May 16. On June 20, the Commission assessed a penalty of \$1,000 against Bad Magick, calculated as \$100 per business day from May 2 to May 16.
- 3 On July 5, 2016, Bad Magick responded to the Commission’s penalty assessment, admitting the violations and requesting mitigation based on the written information provided. In its response, the Company states, “During the UTC inspection, I was made aware of many details and thought that I had covered everything. I believed I filed the annual report. After receiving the penalty, I went through the paper work and realized I filed the Motor Carrier Identification Report, not the annual report. The past year has been challenging. My son was born within the past year, I own another business as well, and learning of everything that goes into operating our bus company has been difficult. I am doing my best and understand it was my responsibility.” That same day, the Company filed an incomplete annual report.
- 4 On July 19, 2016, Commission staff (Staff) filed a response recommending a penalty reduction to \$25 per day, or \$250, because the Company has no prior violations of WAC

480-30-071. Staff conditioned its recommendation on the Company filing a complete annual report and paying the required regulatory fee by August 5.

- 5 On August 5, 2016, Bad Magick filed a complete annual report and paid the required regulatory fee and late payment fee.

DISCUSSION

- 6 WAC 480-30-071 requires charter and excursion carriers to file annual reports by May 1 of each year, or the first business day thereafter. Companies are responsible for complying with their legal obligations, and the Company should have ensured its report was timely filed.

- 7 The Commission nevertheless agrees with Staff's recommendation. The Commission may consider a number of factors when entertaining a request for mitigation, including whether the violation was promptly corrected, a company's history of compliance, and the likelihood the violation will recur.¹ Here, Bad Magick has corrected the violation by filing its annual report and paying its regulatory fee. In addition, this is the Company's first violation of WAC 480-30-071 since it became regulated in 2014. Although the Company has a relatively brief history of compliance, we have routinely granted mitigation for first-time violations. In light of these factors, the Commission will exercise its discretion to reduce the penalty to \$250.

ORDER

THE COMMISSION ORDERS:

- 8 (1) Bad Magick, LLC's request for mitigation of the \$1,000 penalty is GRANTED in part, and the penalty is reduced to \$250.
- 9 (2) The \$250 penalty is due and payable no later than August 24, 2016.

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

- 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 August 10, 2016.

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.