

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET TE-160693
CUSTOMIZED TOURS & CHARTER SERVICE, LLC	ORDER 01
in the amount of \$1,000	ORDER DENYING REQUEST FOR HEARING; GRANTING MITIGATION TO \$500

**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 Customized Tours & Charter Service, LLC (Customized Tours or Company) did not file its annual report by May 2, 2016, and had not made that filing by May 16. On June 21, the Commission assessed a penalty of \$1,000 against Customized Tours, calculated as \$100 per business day from May 2 to May 16.
- 3 On June 27, 2016, Customized Tours filed a complete annual report and paid the required regulatory fee. On July 5, 2016, responded to the Commission's penalty assessment, admitting the violations and requesting a hearing to explain the circumstances. The Company did not provide a written statement, as required.
- 4 On July 18, 2016, Commission staff (Staff) filed a response recommending a penalty reduction to \$50 per day, or \$500. Although the Company received and paid a \$200 penalty in 2009 for violations of WAC 480-30-071, Staff supports a reduced penalty due to the Company's recent history of compliance.

**DISCUSSION**

5 WAC 480-30-071 requires charter and excursion carriers to file annual reports and pay regulatory fees 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 annual report was timely filed.

6 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. Because Customized Tours failed to provide a written statement identifying any material issues of law or fact, the Company's request for a hearing is denied.

7 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, a company's history of compliance, and the likelihood the violation will recur.<sup>1</sup> Although Customized Tours received and paid a \$200 penalty for violations of WAC 480-30-071 in 2009, the Company has since corrected the violations at issue here. Moreover, the Company has made timely filings for the past six years. In light of these factors, we believe a reduced penalty of \$500 – which is still greater than the previous penalty – is appropriate.

**ORDER**

**THE COMMISSION ORDERS:**

- 8 (1) Customized Tours & Charter Service, LLC's request for a hearing is DENIED.
- 9 (2) Customized Tours & Charter Service, LLC's request for mitigation is GRANTED, in part, and the penalty is reduced to \$500.
- 10 (3) The \$500 penalty is due and payable no later than August 23, 2016.

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

- 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 August 9, 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.**