

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment) DOCKET TC-130910
Against)
) ORDER 01
PACIFIC NORTHWEST)
DISTRIBUTING, LLC) ORDER DENYING REQUEST
) FOR MITIGATION
in the amount of \$250)
)
.....

BACKGROUND

- 1 Washington law requires permitted auto transportation companies to file annual reports and pay regulatory fees by May 1 of each year. WAC 480-30-071. On March 1, 2013, the Washington Utilities and Transportation Commission (Commission) mailed annual report and regulatory fee forms to all auto transportation companies. The cover letter accompanying the forms reminded companies to file their annual reports and pay their regulatory fees by May 1, 2013, and detailed potential penalties companies faced if they failed to file by that date. Those penalties include an assessment of up to \$100 for each violation of Commission rules, and in the case of continuing violations, each day’s continuance is a separate violation. RCW 80.04.405.
- 2 On May 10, 2013, the Commission notified Pacific Northwest Distributing, LLC (Pacific or Company), that its annual report and regulatory fee were overdue. The notice stated that late-filing companies that filed no later than May 24, 2013, would receive mitigated penalties of \$25 per day.
- 3 On May 15, 2013, Pacific filed its annual report and paid its regulatory fee. On July 29, 2013, the Commission assessed a mitigated penalty of \$250 against Pacific, calculated as \$25 per business day from May 1 to May 15, 2013, because the Company had not previously failed to timely file its annual report and pay its regulatory fee.
- 4 On August 30, 2013, Pacific responded to the Commission’s penalty assessment, denying that it had violated Commission rules and requesting a hearing. However, Pacific did not explain or provide information to support its claim.

5 On September 6, 2013, the Commission issued a notice stating that because Pacific had not provided a written statement, the Commission would deny the Company's request for a hearing. Nonetheless, the notice stated that the Commission would consider the Company's request for mitigation if it received a written submission of the reasons supporting mitigation no later than September 13, 2013.

6 On September 17, 2013, the Commission received the Company's written submission. Pacific states that while it has tried to prepare its report, there is confusion regarding the merger of two corporations, the certificate process is "murky," and there is a "civil issue" regarding the assets of the former company. Commission Staff did not file a response.

DISCUSSION

7 The Commission denies Pacific's request for mitigation. As an initial matter, the Notice Denying Request for Hearing stated that a request for mitigation must be received by September 13, 2013, and the Company's written submission was not received until September 17, 2013. Accordingly, the Company's request is not timely.

8 Nor do the Company's reasons for failing to timely file its annual report and pay its regulatory fee provide any basis for further mitigation of the assessed penalty. Whatever difficulties Pacific had as the result of its merger with another company are issues the Company should, or reasonably could, have foreseen and taken appropriate action to ensure did not interfere with its ability to meet the May 1, 2013, filing and payment deadline. The Commission finds that the assessed penalty amount provides the appropriate punishment for failing to do so and incentive for the Company to comply with its regulatory obligations in the future and declines to further mitigate the penalty.

ORDER

THE COMMISSION ORDERS:

9 (1) The request of Pacific Northwest Distributing, LLC for mitigation of the \$250 penalty is DENIED.

10 (2) The penalty is due and payable no later than December 20, 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 December 10, 2013.

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.