

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment  
Against

COUNCIL ON AGING AND HUMAN  
SERVICES

in the amount of \$1,000

DOCKET TN-170580

ORDER 01

DENYING MITIGATION

**BACKGROUND**

- 1 On February 28, 2017, the Washington Utilities and Transportation Commission (Commission) mailed annual report and regulatory fee forms to all nonprofit transportation companies. The forms included a reminder that companies must file their annual reports and pay their regulatory fees by May 1, 2017, 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 Council on Aging and Human Services (CAHS or Company) did not file an annual report on May 1, 2017, and had not made that filing by May 15. On July 7, 2017, the Commission assessed a penalty of \$1,000 against CAHS, calculated as \$100 per business day from May 1 to May 15.
- 3 On July 17, 2017, CAHS filed a complete annual report. That same day, the Company responded to the Commission's penalty assessment, admitting the violations and requesting mitigation based on the written information provided. In its response, the Company explained that it mistakenly believed its annual report was due on December 31.
- 4 On August 4, 2017, Commission staff (Staff) filed a response recommending the Commission deny the Company's request for mitigation. The penalty assessment notified the Company that mitigation would only be granted if the Company could demonstrate that the violations occurred due to circumstances beyond its control. Because CAHS failed to identify any such circumstances, Staff does not support the Company's request. Due to the Company's nonprofit status, however, Staff recommends the Commission suspend a \$900 portion of the penalty on the condition the Company files its 2017 annual report no later than May 1, 2018.

## DISCUSSION

- 5 WAC 480-31-080 requires nonprofit transportation companies to file annual reports by  
May 1 of each year. Companies are responsible for complying with their legal  
obligations, and the Company should have ensured its report was timely filed.
- 6 We agree with Staff that mitigation of the penalty is not appropriate in the circumstances  
presented here. The penalty assessment advised the Company that a request for  
mitigation will only be granted if the violations occurred due to circumstances beyond its  
control.<sup>1</sup> CAHS's explanation for its late filing – that it misunderstood Commission  
requirements – is expressly identified in the penalty assessment as an unacceptable basis  
for mitigation. Accordingly, we find that CAHS failed to demonstrate that the violations  
occurred due to circumstances beyond its control, and conclude that its request for  
mitigation should be denied.
- 7 We also decline to adopt Staff's recommendation to suspend a portion of the penalty.  
Although we are sensitive to the Company's nonprofit status, we note that financial  
hardship was excluded from the list of acceptable bases for granting mitigation.  
Moreover, CAHS received a \$100 penalty for these same violations in 2014. Because  
these are repeat violations, we find it appropriate to impose the full penalty. To reduce  
the financial impact of the penalty, the Company may work with Staff to establish  
mutually agreeable payment arrangements.

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<sup>1</sup> Those circumstances include, but are not limited to: death or serious illness of the person responsible for filing the report, or a member of that person's immediate family; destruction by fire or other casualty of the company's place of business or business records; or an act of fraud, embezzlement, theft, or conversion on the part of an employee. Circumstances that do not qualify as an acceptable basis for requesting mitigation include: financial hardship; a misunderstanding or lack of knowledge of Commission rules; failure to receive an annual report form from the Commission; mistakes or misconduct on the part of an employee; employee termination or turnover; personal events such as weddings or graduation ceremonies; and vacations or business trips.

**ORDER**

THE COMMISSION ORDERS:

- 8 (1) Council on Aging and Human Services' request for mitigation of the \$1,000  
penalty is DENIED.
- 9 (2) Council on Aging and Human Services must either pay the \$1,000 penalty or file  
jointly with Staff a proposed payment arrangement no later than September 19,  
2017.
- 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 September 5, 2017.

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.