

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET TE-170610
CREATIVE BUS, LLC	ORDER 01
in the amount of \$1,000	DENYING MITIGATION

**BACKGROUND**

- 1 On February 28, 2017, 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 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 Creative Bus, LLC (Creative Bus or Company) did not file an annual report on May 1, 2017, and had not made that filing by May 15. On June 19, 2017, the Commission assessed a penalty of \$1,000 against Creative Bus, calculated as \$100 per business day from May 1 to May 15.
- 3 On July 10, 2017, Creative Bus filed a complete annual report and paid its regulatory fee. That same day, the Company responded to the Commission's penalty assessment, admitting the violations and requesting mitigation based on the information provided. In its response, the Company explained that it overlooked the annual report due to "family matters" and being out of town for the month of June.
- 4 On July 31, 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 Creative Bus failed to identify any such circumstances, Staff does not support the Company's request. Staff nevertheless recommends the Commission suspend a \$500 portion of the penalty subject to the condition that the Company files its 2017 annual report no later than May 1, 2018.

## DISCUSSION

- 5 WAC 480-30-071 and WAC 480-30-076 require charter and excursion 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> Creative Bus's explanation for its late filing – that it mistakenly overlooked the requirement – is expressly identified in the penalty assessment as an unacceptable basis for mitigation. Accordingly, we find that Creative Bus 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 suspend a portion of the penalty. Staff bases its recommendation on the Company's recent history of compliance, noting that Creative Bus last received penalties for these same violations in 2009. Although the Commission assesses reduced penalties for first-time violations, we decline to afford the same leniency to repeat offenders. To reduce the financial impact of the penalty, the Company may work with Staff to establish a mutually agreeable payment arrangement.

## ORDER

### THE COMMISSION ORDERS:

- 8 (1) Creative Bus, LLC's request for mitigation of the \$1,000 penalty is DENIED.

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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.

9 (2) Creative Bus, LLC must either pay the \$1,000 penalty or file jointly with Staff a proposed payment arrangement no later than September 20, 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 6, 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.**