

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment
Against

WASTE CONTROL, INC.

in the amount of \$100

DOCKET TG-170724

ORDER 01

DENYING REQUEST FOR HEARING;
DENYING CONTEST OF VIOLATION;
DENYING MITIGATION

BACKGROUND

- 1 On July 11, 2017, the Washington Utilities and Transportation Commission (Commission) assessed a \$100 penalty (Penalty Assessment) against Waste Control, Inc. (Waste Control or Company) for one violation of Washington Administrative Code (WAC) 480-70-201, which adopts by reference 49 C.F.R. Part 393 related to parts and accessories necessary for safe operation.
- 2 On July 27, 2017, Waste Control responded to the Penalty Assessment, contesting the violation and requesting a hearing. In its response, the Company states, "There was no violation. Our normal daily post trip inspection would have corrected the issue timely."
- 3 On August 3, 2017, Commission staff (Staff) filed a response recommending the Commission deny the Company's request for mitigation because the violation at issue puts the safety of the traveling public at risk. The Penalty Assessment includes a \$100 penalty for one violation of 49 C.F.R. Part 393.25(f).

DISCUSSION AND DECISION

- 4 Washington law requires solid waste collection carriers to comply with federal safety requirements and undergo routine safety inspections. In some cases, Commission requirements are so fundamental to safe operations that the Commission will issue penalties for first-time violations.¹ Equipment violations that meet the Federal Motor

¹ Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission ¶12 (Jan. 7, 2013) (Enforcement Policy).

Carrier Safety Administration's "out-of-service" criteria meet this standard, and are subject to penalties of \$100 per violation.

5 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. Here, no issues of law or fact are in dispute. The Company acknowledges that the violation occurred, but disagrees that it should be penalized for its conduct. The facts, therefore, are undisputed, and the law is clear. Accordingly, the Company's request for a hearing is denied.

6 The Commission also denies the Company's contest of the violations. Waste Control acknowledges that the violation occurred. The Company thus violated the law.

7 We will, however, construe the Company's submission as a request for mitigation. The Commission considers several factors when entertaining a request for mitigation, including whether the company introduces new information that may not have been considered in setting the assessed penalty amount, or explains other circumstances that convince the Commission that a lesser penalty will be equally or more effective in ensuring the company's compliance.²

8 The Penalty Assessment assessed a \$100 penalty for one violation of 49 C.F.R. Part 393.25(f) because the brake lights on one of the Company's vehicles were inoperative. Once discovered, the Company's employee replaced the blown fuse. Staff recommends no mitigation of the penalty because the Company did not provide any new or compelling information for the Commission to consider. We agree. Waste Control failed to introduce any additional circumstances not previously considered that would warrant mitigation of the penalty. Moreover, as noted in the Penalty Assessment, inoperative brake lights present serious safety concerns that create a risk of harm to the public. Accordingly, we deny the Company's request for mitigation of the penalty.

FINDINGS AND CONCLUSIONS

9 (1) The Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, and practices of public service

² Enforcement Policy ¶19.

companies, including solid waste collection carriers, and has jurisdiction over the parties and subject matter of this proceeding.

- 10 (2) Waste Control is a solid waste collection carrier subject to Commission regulation.
- 11 (3) Waste Control violated WAC 480-70-201, which adopts by reference 49 C.F.R. 393.25(f), when it allowed its vehicle to operate without working brake lights.
- 12 (4) The Commission should penalize Waste Control \$100 for one violation of WAC 480-70-201, which adopts by reference 49 C.F.R. 393.25(f).
- 13 (5) Waste Control must pay the \$100 penalty within ten days of the effective date of this Order.


ORDER

THE COMMISSION ORDERS:

- 14 (1) Waste Control, Inc.'s request for mitigation of the \$100 penalty is DENIED.
- 15 (2) Waste Control, Inc. must pay the \$100 penalty within 10 days of the effective date of this Order.
- 16 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.