

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment
Against

7LENORA, LLC

in the amount of \$800

DOCKET TV-240378

ORDER 01

GRANTING MITIGATION TO \$400

BACKGROUND

1 On June 3, 2024, the Washington Utilities and Transportation Commission (Commission) issued an \$800 penalty (Penalty Assessment) against 7Lenora, LLC (7Lenora or Company). The Commission found that 7Lenora violated Washington Administrative Code (WAC) 480-15-555, Criminal Background Checks for Prospective Employees and WAC 480-15-560, Vehicle and Driver Safety Requirements, which adopts Title 49 Code of Federal Regulation (C.F.R.) Part 391 – Qualifications of Drivers. The Penalty Assessment includes:

- Six violations of WAC 480-15-555(1) – Failure to complete a criminal background check for every person the carrier intends to hire. The Company failed to acquire criminal background checks prior to hiring employees Damion Alexander, Matthew Bauer, Chris Dreiblatt, Nicole Martin, Kary McLean, and John Peek. The Commission assessed a penalty of \$100 for each occurrence of this first-time critical violation for a total of \$600.
- Two violations of 49 C.F.R. § 391.45(a) – Using a driver not medically examined and certified. 7Lenora allowed driver John Peek to operate a motor vehicle without a valid medical certificate on two occasions on November 20, 2023, and April 15, 2024. The Commission assessed a penalty of \$100 for each occurrence of this critical violation for a total of \$200.

2 On June 24, 2024, 7Lenora filed with the Commission an application for mitigation of penalties. In the request for mitigation, Jacob Chymiy, owner of 7Lenora, admitted to the violations, described steps the company has taken to prevent future violations, and asked that the penalty amount be waived. He shared that the Company has changed its background check services and identified a local medical examiner listed on the Federal

Motor Carrier Safety Administration’s National Registry of Certified Medical Examiners website to ensure medical certifications are valid. Additionally, the Company supplied Commission staff (Staff) with background checks for each person named in the Penalty Assessment, except for Chris Dreiblatt, who is no longer employed with the Company. The Company also confirmed that driver John Peek has obtained valid medical certification.

- 3 On June 28, 2024, Staff filed a response to 7Lenora’s request for mitigation recommending the Commission mitigate the total assessed penalty from \$800 to \$400, noting that these first-time violations have been corrected, and that the Company has implemented procedures to prevent repeat violations from occurring.

DISCUSSION AND DECISION

- 4 Washington law requires household goods 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 Violations defined by federal law as “critical” meet this standard.²
- 5 Violations classified as “critical” are indicative of a breakdown in a carrier’s management controls. Critical violations are subject to penalties of \$100 per violation.³
- 6 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 provides other circumstances that convinces the Commission a lesser penalty will be equally or more effective to ensure the company’s compliance.⁴ The Commission will also consider whether the violations were promptly corrected, the seriousness of the violations, whether the violations were intentional, the company’s cooperation and responsiveness, the number of violations, the number of customers affected, a company’s history of compliance, the likelihood the violation will recur, and the size of the company.⁵

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

² 49 C.F.R. § 385, Appendix B.

³ See RCW 81.04.405.

⁴ Enforcement Policy ¶19.

⁵ Enforcement Policy ¶15.

- 7 The Commission assessed a \$600 penalty for 6 violations of WAC 480-15-555. 7Lenora states that they have updated their process to obtain background checks for all future employees. The Company also provided background checks for all current Washington employees. Staff recommends that the \$600 penalty be reduced to \$300 for these first time critical-type violations.
- 8 The Commission assessed a penalty of \$200 for 2 violations of 49 C.F.R. § 391.45(a). Driver John Peek has since obtained a valid medical certification. Staff recommends the \$200 penalty be reduced to \$100 for these first time critical-type violations.
- 9 We agree and grant the request to mitigate the total assessed penalty. The Company has no history of penalties for safety violations and has been cooperative throughout the safety investigation. The Company also began making corrections promptly during the investigation. Staff provided 7Lenora with technical assistance to remedy the Company's safety management controls to support safe operations and provided guidance as to how to improve its safety performance. When the Company submitted its application for mitigation, it also identified the corrective actions it has taken. The Company supplied Staff with background checks for each employee named in the penalty assessment that currently works for the Company, stated that it has updated its background check services, and communicated that it is now utilizing the services of a local medical examiner listed on the Federal Motor Carrier Safety Administration's National Registry of Certified Medical Examiners website to ensure medical certifications are valid moving forward.

FINDINGS AND CONCLUSIONS

- 10 (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 companies, including household goods carriers, and has jurisdiction over the parties and subject matter of this proceeding.
- 11 (2) 7Lenora is a household goods carrier subject to Commission regulation.
- 12 (3) 7Lenora violated WAC 480-15-555 for failure to complete a criminal background check for every person the carrier intended to hire.
- 13 (4) 7Lenora should be penalized \$300 for 6 violations of WAC 480-15-555.
- 14 (5) 7Lenora violated 49 C.F.R. § 391.45(a) for using a driver not medically examined and certified.

- 15 (6) 7Lenora should be penalized \$100 for 2 violations of 49 C.F.R. § 391.45(a).
- 16 (7) The Commission should assess a total penalty of \$400 for 8 violations: 6 violations of WAC 480-15-555 and 2 violations of 49 C.F.R. § 391.45(a).

ORDER

THE COMMISSION ORDERS:

- 17 (1) 7Lenora, LLC's request for mitigation of the \$800 penalty is GRANTED and the penalty is reduced to \$400.
- 18 (2) 7Lenora, LLC shall pay the \$400 penalty within 14 days of the effective date of this order.
- 19 The Secretary has been delegated authority to enter this order on behalf of the Commissioners under WAC 480-07-904(1)(h).

DATED at Lacey, Washington, and effective July 12, 2024.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

JEFF KILLIP
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.