

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET TE-170615
EXPLORATION COACH LINES, LLC	ORDER 01
in the amount of \$1,000	DENYING REQUEST FOR HEARING; DENYING CONTEST OF VIOLATIONS; 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 Exploration Coach Lines, LLC (Exploration Coach Lines or Company) did not file an annual report on May 1, 2017, and had not made that filing by May 15. On June 5, 2017, Exploration Coach Lines filed a complete annual report and paid its regulatory fee. On June 21, the Commission assessed a penalty of \$1,000 against Exploration Coach Lines, calculated as \$100 per business day from May 1 to May 15.
- 3 On July 5, 2017, Exploration Coach Lines responded to the Commission's penalty assessment, contesting the violations and requesting a hearing. In its response, the Company claims it emailed its annual report directly to Commission staff (Staff) and believes it was Staff's responsibility to notify it that its report was incomplete.
- 4 On July 19, 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 Exploration Coach Lines failed to identify any such circumstances, Staff does not support the Company's request.

## 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 received.
- 6 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. Commission records show that the Company's annual report was not received until June 5, 2017. The facts, therefore, are undisputed, and the law is clear. Accordingly, the Company's request for a hearing is denied.
- 7 The Commission also denies the Company's contest of the violations. The undisputed facts show that the Commission received the Company's annual report on June 5, 2017, long after the May 1 deadline. The Company has thus violated the law.
- 8 We agree with Staff that mitigation of the penalty is not appropriate in the circumstances presented here. The penalty assessment advised the Company that requests for mitigation will only be granted if the violations occurred due to circumstances beyond its control.<sup>1</sup> Although Exploration Coach Lines argues that Staff should have reached out to the Company sooner, it is not Staff's responsibility to ensure that the Company's annual report is timely filed. Accordingly, we find that Exploration Coach Lines failed to demonstrate that the violations occurred due to circumstances beyond its control, and conclude that its request for mitigation should be 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 employees; employee termination or turnover; personal events such as weddings or graduation ceremonies; and vacations or business trips.

**ORDER**

THE COMMISSION ORDERS:

- 9 (1) Exploration Coach Lines, LLC's request for mitigation of the \$1,000 penalty is DENIED.
- 10 (2) The \$1,000 penalty is due and payable no later than September 14, 2017.
- 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 August 31, 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.**