

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET TE-170633
NW NAVIGATOR LUXURY COACHES, LLC	ORDER 01
in the amount of \$1,000	GRANTING 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 NW Navigator Luxury Coaches, LLC (NW Navigator or Company) did not file an annual report on May 1, 2017, and had not made that filing by May 15. On June 14, NW Navigator filed its annual report and paid its regulatory fee. On June 21, the Commission assessed a penalty of \$1,000 against NW Navigator, calculated as \$100 per business day from May 1 to May 15.
- 3 On July 3, 2017, NW Navigator responded to the Commission's penalty assessment, admitting the violations and requesting mitigation based on the information provided. In its response, the Company stated, "We suffered a huge loss when our operations manager/dispatcher (who among many duties also collects the mail, and is in charge of forms and filings) was involved in a dirt bike accident and suffered a traumatic brain injury. He is still out as he has suffered memory loss and still cannot recall the events of yesterday. It has taken us until now to fill part of his first position with a new dispatcher. I would like to request a reduction in the penalty, as soon as I discovered the failure to report, I immediately rectified on our end, and paid."

- 4 On July 19, 2017, Commission staff (Staff) filed a response recommending the Commission grant the Company's request for mitigation. Staff supports the Company's request because the violations occurred as a result of an employee's serious, long-term medical condition, which was beyond the Company's control.

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 Nevertheless, we agree with Staff that mitigation of the penalty is appropriate in light of 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.¹ NW Navigator's explanation for its late filing – that the employee responsible for filing the report suffered a serious, long-term injury – is expressly identified in the penalty assessment as an acceptable basis for mitigation. Accordingly, we find that NW Navigator effectively demonstrated that the violations occurred due to circumstances beyond its control, and conclude that its request for mitigation should be granted.

ORDER

THE COMMISSION ORDERS That NW Navigator Luxury Coaches, LLC's request for mitigation of the \$1,000 penalty is GRANTED.

¹ 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.

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.