



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

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October 2, 2020

Mark L. Johnson, Executive Director and Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, WA 98504-7250

RE: *Washington Utilities and Transportation Commission v. Peninsula Sanitation Service, Inc.*
Commission Staff's Response to Application for Mitigation of Penalties
Docket TG-200756

Dear Mr. Johnson:

On September 2, 2020, the Washington Utilities and Transportation Commission (Commission) issued a penalty assessment against Peninsula Sanitation Service, Inc., (Peninsula Sanitation or Company) in the amount of \$20,800 for violations of Washington Administrative Code (WAC) 480-70-201, Vehicle and Driver Safety Requirements, which adopts Title 49 Code of Federal Regulations (49 CFR) Part 383 – Commercial Driver's License Standards; Requirements and Penalties and 49 CFR Part 391 – Qualification of Drivers, as follows:

- **Two hundred seven violations of 49 CFR § 383.37(a) – Allowing, requiring, permitting, or authorizing a driver to operate a commercial motor vehicle during any period in which the driver does not have a current commercial learner's permit (CLP) or commercial driver's license (CDL) or does not have a CLP or CDL with the proper class or endorsements. An employer may not use a driver to operate a commercial motor vehicle who violates any restriction on the driver's CLP or CDL.** Peninsula Sanitation allowed drivers Chad Palmer, Jarrett Anglin, and Scott Cox to operate a commercial motor vehicle with a downgraded CDL on 207 occasions between October 1, 2019, and February 28, 2020.
- **Five violations of 49 CFR § 391.51(b)(7) – Failing to maintain medical examiner's certificate in driver's qualification file.** The Company failed to obtain motor vehicle records containing the medical certificate statuses for drivers Chad Palmer, Jarrett Anglin, Scott Cox, Pam Hall, and Johnny Phillips.

On September 29, 2020, Peninsula Sanitation filed with the Commission its request for mitigation of penalties. In the request, David W. Wiley of Williams Kastner & Gibbs, PLLC, on behalf of Peninsula Sanitation, admits the violations, describes corrective actions the Company has taken to prevent future occurrences, and asks that the penalties be reduced. The mitigation request does not explicitly state whether the Company is asking for a hearing to present evidence to an administrative law judge for a decision or is requesting a Commission decision based solely on the information provided.

Concerning the 207 violations of 49 CFR § 383.37(a), Peninsula Sanitation states the violations were unintentional and attributes the occurrences to the absence of a consistent monitoring program in the past to capture driver CDL statuses. To remedy the violations, the Company states it has implemented a new verification system that includes maintaining a list of driver's license expiration dates, synchronizing driver's license expiration dates with the Company's payroll system, and obtaining driving records from the Washington Department of Licensing (DOL) to verify that each driver has a current CDL and that medical certification has been submitted to DOL. Peninsula Sanitation provided Staff with evidence that it corrected the violations of 49 CFR § 383.37(a).

Peninsula Sanitation did not specifically address the five violations of 49 CFR § 391.51(b)(7) in its request for mitigation, but the Company did provide Staff with copies of driver abstracts that contain the medical certificate statuses for drivers Chad Palmer, Jarrett Anglin, Scott Cox, Pam Hall, and Johnny Phillips.

In response to Peninsula Sanitation's request for mitigation, the Company remedied each violation, provided Staff with supporting evidence that corrections were made, and put safety management controls in place to prevent future occurrences. Staff addresses the penalties below.

- The Commission assessed a penalty of \$20,700 for 207 acute violations of 49 CFR § 383.37(a). Staff recommends the penalty be reduced to \$10,300.
- The Commission assessed a "per category" penalty of \$100 for five critical violations of 49 CFR § 391.51(b)(7), rather than assessing a penalty for each occurrence. For this reason, Staff recommends no mitigation of this penalty.

Staff recommends the penalty of \$20,800 be reduced to \$10,400. Staff further recommends that \$5,200 of the reduced penalty be suspended for a period of two years before being waived, on the conditions that: (1) Staff conducts a focused review in two years or as soon thereafter as practicable to review the Company's driver qualifications, (2) the Company not incur any repeat violations of critical or acute regulations, and (3) Peninsula Sanitation pays the \$5,200 portion of the penalty that is not suspended.

If you have any questions, please contact Jason Hoxit, Compliance Investigator, Transportation Safety, at (360) 867-8305, or by email at Jason.Hoxit@utc.wa.gov.

Mark L. Johnson

October 2, 2020

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Sincerely,



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Jason Sharp

Motor Carrier Safety Supervisor, Transportation Safety