

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET TC-210632
CWA, INC.,	ORDER 01
in the amount of \$100	DENYING CONTEST OF VIOLATIONS

**BACKGROUND**

1 On September 23, 2021, the Washington Utilities and Transportation Commission (Commission) assessed a \$100 penalty (Penalty Assessment) against CWA, Inc., (CWA or Company) for one violation of Washington Administrative Code (WAC) 480-30-221, which adopts by reference Title 49 Code of Federal Regulations (C.F.R.).<sup>1</sup> The Penalty Assessment includes:

- A \$100 penalty for one violation of 49 C.F.R. § 383.23(a)(2) for allowing a driver to operate a commercial motor vehicle without a commercial driver’s license (CDL).

2 On October 4, 2021, CWA filed with the Commission a response contesting the violation (Application) and asking that the Commission decide based on the information provided. With the Application, CWA provided a copy of the driver’s medical examination certificate and CDL. The Application did not provide any written explanation regarding the violation or its grounds to contest it.

3 On October 7, 2021, Commission staff (Staff) filed a response recommending the Commission deny the Application.

**DISCUSSION AND DECISION**

4 Washington law requires auto transportation companies to comply with federal safety requirements and undergo routine safety inspections. Violations discovered during safety

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<sup>1</sup> WAC 480-30-221 adopts by reference sections of Title 49 C.F.R. Accordingly, Commission safety regulations with parallel federal rules are hereinafter referenced only by the applicable provision of 49 C.F.R.

inspections are subject to penalties of \$100 per violation.<sup>2</sup> In some cases, Commission requirements are so fundamental to safe operations that the Commission will issue penalties for first-time violations.<sup>3</sup> Violations defined by federal law as “critical,” which are indicative of a breakdown in a carrier’s management controls, meet this standard.<sup>4</sup>

5 The Penalty Assessment includes a \$100 penalty for one violation of 49 C.F.R. § 383.23(a)(2) because the Company allowed a driver with a downgraded CDL to operate a commercial motor vehicle. In its Application, the Company provided only copies of the driver’s medical examination certificate, the driver’s current driver’s license, and the driver/vehicle examination report.

6 Staff recommends the Commission deny the contest of this penalty because the Company failed to provide any evidence to refute the violation occurred. We agree. The documents provided by the Company with the Application show that the driver had a current medical examination, but do not address whether that examination was on file with the Washington State Department of Licensing (DOL) at the time of the violation. The investigation showed that the certificate was not on file with DOL, which resulted in a downgraded license. We agree with Staff that the evidence supports the penalty and the penalty is consistent with the Commission’s enforcement policy.

### FINDINGS AND CONCLUSIONS

- 7 (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 auto transportation companies, and has jurisdiction over the parties and subject matter of this proceeding.
- 8 (2) CWA is an auto transportation company subject to Commission regulation.
- 9 (3) CWA violated 49 C.F.R. § 383.23(a)(2) when it allowed its driver to operate a commercial motor vehicle with a downgraded CDL.
- 10 (4) CWA should be penalized \$100 for one violation of 49 C.F.R. § 383.23(a)(2).

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<sup>2</sup> See RCW 81.04.405.

<sup>3</sup> Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission ¶12 (Jan. 7, 2013) (Enforcement Policy).

<sup>4</sup> 49 C.F.R. § 385, Appendix B.

**ORDER**

THE COMMISSION ORDERS:

- 11 (1) CWA, Inc.'s contest of the violation is DENIED.
- 12 (2) The penalty is due and payable no later than November 5, 2021.
- 13 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 October 26, 2021.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

AMANDA MAXWELL  
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.**