

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Penalty Assessment
Against RAFAEL V. DELEON d/b/a
BOYET TRANSPORTATION in the
Amount of \$100

DOCKET TE-080340

DECLARATION OF
SHERI HOYT

SHERI HOYT, under penalty of perjury under the laws of the state of Washington, declares as follows:

1. I am over 18 years of age, a citizen of the United States, a resident of the state of Washington, and competent to be a witness.
2. I am employed by the Washington Utilities and Transportation Commission (Commission) as a Compliance Specialist in the Business Practices Investigations Section. I have been employed at the Commission for over 16 years, holding various positions. As a Compliance Specialist, my responsibilities include conducting investigations regarding the business practices of regulated utility or transportation companies. As part of those duties, I investigate charter and excursion carriers that may be operating in violation of Commission statute, rule, or tariff.
3. On March 19, 2008, Rafael V. DeLeon d/b/a Boyet Transportation (Boyet Transportation) filed with the Commission an Application for Mitigation (Mitigation Request) in Docket No. TE-080340. On March 24, 2008, Boyet Transportation filed an amended Mitigation Request with the Commission. I have read the Mitigation Request. In the Mitigation Request, Boyet Transportation waives a hearing and asks for an administrative decision.
4. This Mitigation Request arises from a Notice of Penalties Incurred and Due for Violations of Laws and Rules issued by the Commission on March 6, 2008, in Docket TE-080340. In that Notice, the Commission issued a penalty of \$100 for a violation of Washington Administrative Code 480-30-071, which requires charter and excursion carriers to file annual safety reports with the Commission by December 31 each year.
5. Before recommending the Commission issue penalties, as part of my job, I conducted an investigation of Commission records concerning Boyet Transportation. My investigation resulted in an investigation report titled, "Staff

Investigation - 2007 Annual Safety Reports.”¹ I identified the violation in this case from records maintained by the Commission.

Specific Issues Addressed by Boyet Transportation in its Mitigation Request

Boyet Transportation states it did not receive the 2007 Annual Safety Report form.

6. In its Mitigation Request, Boyet Transportation states it did not receive the annual safety report form from the Commission. Boyet Transportation contacted Commission Staff and requested an application. When the company sent the form back to the Commission it failed to put the complete mailing address on the envelope and as a result the envelope was returned to the company.
7. Commission records indicate the annual safety report packet was mailed to Boyet Transportation at the address on record with the Commission, 3707 South Perry Street, Seattle, Washington, 98118-5241, on November 19, 2007. A letter signed by Carole J. Washburn, Executive Secretary, accompanied the report. The letter stated companies must complete and file the 2007 annual safety report form and pay the 2008 regulatory fees by December 31, 2008.
8. Washington Administrative Code 480-30-071 states, in part,

Each year the commission provides an annual report form and instructions to each company at its address of record. Failure to receive the form does not relieve a company of its obligation to complete and file its annual report. A company that does not receive an annual report form must contact the commission to obtain a copy of the form.
9. Commission records indicate Boyet Transportation was sent a letter on January 21, 2008, notifying it that its 2007 annual safety report had not been received by the December 31, 2007 deadline. The letter, signed by Ms. Washburn, gave the carrier until January 31, 2008, to file the report to avoid enforcement action, which could include penalties of up to \$100 per day.
10. Boyet Transportation contacted Commission Staff on January 30, 2008, and requested the report form be faxed to it. The time and date heading on the report Boyet Transportation eventually filed with the Commission² shows the company received the form that same day.

¹ A true and accurate copy of the investigation report is attached to this declaration as Attachment A.

² A true and accurate copy of Boyet Transportation’s 2007 Annual Safety report is attached as Attachment B. Boyet Transportation’s filed report includes a fax cover sheet dated January 30, 2008, which accompanied the form sent by Commission Staff to Boyet Transportation.

Boyet Transportation states its filing was delayed by its error in addressing the envelope.

11. In its Mitigation Request, Boyet Transportation states that it did not put the complete address on the envelope, which resulted in the filing being returned to the sender. Because the extended deadline given to Boyet Transportation was January 31, 2008, it should have sent the report form to the Commission utilizing next day delivery, or, in lieu of that, hand-delivered the report in order that it make the deadline. Instead, Boyet Transportation mailed the report to the Commission using first class mail, including the Commission's name and post office box number but omitting the city, state and zip code of the Commission's address, and causing further delay in delivery to the Commission.
12. The returned envelope, included with Boyet Transportation's Mitigation Request, is postmarked February 2, 2008³. The postmark demonstrates that Boyet Transportation mailed the annual safety report after the January 31, 2008, deadline.
13. The Commission received Boyet Transportation's 2007 Annual Safety Report on February 7, 2008.

Staff Recommendation

14. The 2007 Annual Safety Report was mailed to the appropriate address for Boyet Transportation. Boyet Transportation received a letter giving it an extension to file the report by January 31, 2008. Boyet Transportation did not attempt to mail the annual safety report to the Commission until February 2, 2008, which was after the extended deadline. Therefore, Staff opposes mitigation and recommends the penalty stand.

DATED this 2nd day of April 2008, at Olympia, Washington.

SHERI HOYT

³ A true and accurate copy of the returned envelope provided by Boyet Transportation is attached to this declaration as Attachment C.

Attachment A

Charter and Excursion Carriers Staff Investigation - 2007 Annual Safety Reports February 22, 2008

Purpose

The purpose of this investigation is to determine if 14 charter and excursion carriers¹ are in violation of Washington Administrative Code (WAC) 480-30-071. WAC 480-30-071 requires charter and excursion carriers to furnish annual safety reports to the commission no later than December 31 each year.

Background

This investigation was prompted by commission staff's yearly review of annual safety reports for charter and excursion carriers registered in the state of Washington.

On November 19, 2007, the commission mailed 2007 Annual Safety Report forms and 2008 Regulatory Fee packets to charter and excursion carriers registered in Washington State. A letter from Executive Secretary Carole Washburn instructed companies to file annual safety reports and pay regulatory fees by December 31, 2007². Further, the letter stated failure to file the annual safety report by May 1 would result in a penalty and possible cancellation of the company's permit to operate in Washington. Those companies wishing to request an extension to file the annual safety report were asked to do so prior to May 1, providing a reason for the requested extension.

Investigation

The 14 charter and excursion carriers listed in attached Appendix A failed to file their 2007 annual safety reports by the December 31 deadline. On January 21, 2008, the commission sent letters to those companies that had not yet filed their reports. The letter, signed by Carole Washburn, gave an extension to companies to file their reports by January 31, 2008³. In the letter, Ms. Washburn stated the commission would not seek to penalize any company with a report filed by January 31, 2008. None of the 14 companies listed in Appendix A requested an extension.

Recommendation:

Staff recommends the commission penalize the 14 charter and excursion carriers that failed to file a 2007 annual safety report by January 31, 2008, \$100 each for a violation of WAC 480-30-071.

¹ See Appendix A for a list of the charter and/or excursion carriers.

² See Appendix B for a copy of the November 19, 2007, letter sent to charter and excursion carriers.

³ See Appendix C for a copy of the January 21, 2008, delinquent letter sent to charter and excursion carriers.

APPENDIX A

	Company Name	Report Received Yes or No	If yes, Date Received	Recommended Penalty Amount
1.	Angel Limo USA Inc	No		\$100
2.	CUSA CSS, LLC	No		\$100
3.	CUSA PRS, LLC	No		\$100
4.	Customized Tours & Charter Service LLC	No		\$100
5.	CWA, Inc.	No		\$100
6.	DeLeon, Rafael V.	Yes	February 7	\$100
7.	Exectrans LLC	No		\$100
8.	First Student, Inc.	No		\$100
9.	Gateway Transportation, LTD	No		\$100
10.	Greyhound Lines, Inc.	No		\$100
11.	Huseby, Kenneth M.	No		\$100
12.	J & P Bell Industries, Inc.	Yes	February 12	\$100
13.	Janssen, Gordon E.	No		\$100
14.	Langdon, Michael Vontrell	No		\$100

APPENDIX B

November 19, 2007

Subject: Your Charter and Excursion Annual Safety Report and Regulatory Fees are Due December 31, 2007

You are required to file an annual safety report and pay regulatory fees if you operate as a charter or excursion company.

What is required of me?

By December 31, you must:

- Complete and file the enclosed 2007 annual safety report form.
- Pay your 2008 regulatory fees.

* Regulatory fees for 2008 have increased to \$25 per vehicle. This is the first regulatory fee increase for charter and excursion bus companies since 1993.

If you are using U.S. postal mail to send your annual safety report and pay your regulatory fee, the envelope must be postmarked by Saturday, December 29, 2007. If you are planning on using another delivery method, the company must ensure that it arrives at the commission by 5:00 p.m. Monday, December 31, 2007.

Failure to file or mail your annual safety report or pay regulatory fees by December 31 will result in a penalty and possible cancellation of your permit to operate in Washington. This is the only notice you will receive from the commission.

What happens if I do not pay my regulatory fees by December 31?

If regulatory fees are not paid by December 31, you will incur:

- a 2 percent penalty on the amount due; and
- a 1 percent monthly interest charge on the unpaid balance.

Can I request an extension of time if I am unable to file the annual safety report by December 31?

Yes, you must provide the request in writing, including a valid reason for the extension by December 31. We will notify you when your request is approved or denied. You will still be liable for penalty and interest payments if you fail to pay your regulatory fees by December 31. If you are late filing your annual safety report or fail to file, you could incur additional penalties up to \$100 a day.

November 19, 2007

Page 2

What if I didn't operate during the year?

You must indicate this on the report and regulatory fee sheet that you've had no operations, include the minimum \$25 fee and return both forms to the commission. If you are no longer using your charter or excursion authority and wish to cancel it, go to our website at www.utc.wa.gov and locate the, "voluntary permit cancellation form" or call us at (360) 664-1222 and we'll mail you the form.

Where do I mail the completed annual safety report form and regulatory fee payment?

Washington Utilities and Transportation Commission
PO Box 47250
Olympia, WA 98504-7250

Where can I obtain an electronic version of the annual safety report?

Forms are available on our website at www.utc.wa.gov. Locate "Quick Links" then select "2007 annual safety report".

Who do I contact if I have questions?

You may call Tom McVaugh at (360) 664-1237 or e-mail him at tmcvaugh@utc.wa.gov for questions related to the annual safety report. If you have questions calculating your regulatory fee, penalties or interest, call Brandy Sedillo at (360) 664-1152 or e-mail her at bsedillo@utc.wa.gov. If you need this information in an alternate format, please call (360) 664-1133. TTY Toll Free phone number is (800) 416-5289 or (360) 586-8203.

Sincerely,

Carole J. Washburn
Executive Secretary

Enclosures

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CHARTER & EXCURSION CARRIERS ANNUAL SAFETY REPORT

CH-____ ES-____ C-____ MC-____ DOT-____

Full name and address of Company	Correct name and address, if different than shown

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION for the YEAR ENDED DECEMBER 31, 2007

Address inquiries concerning this Annual Safety Report to:

COMPANY CONTACT: _____ TITLE: _____
ADDRESS: _____
CITY: _____ STATE: _____ ZIP: _____
TELEPHONE: _____ FAX: _____ E-MAIL: _____

The company must notify the commission, in writing, of any changes to the above information.

TYPE OF PAYMENT - DO NOT SEND CASH IN THE MAIL		For Commission Use Only	
<input type="checkbox"/> Check <input type="checkbox"/> Money Order <input type="checkbox"/> AMEX <input type="checkbox"/> Visa <input type="checkbox"/> MasterCard <input type="checkbox"/> Discover		Credit Card Authorization #: _____	
Credit Card Number: _____		Expiration Date Month/Year	
CERTIFICATION: I, the undersigned, under penalty for false statement, certify that the information is true, valid and correct, that I am authorized to execute on behalf of the applicant, and that I agree to pay the above total amount according to card issuer agreement.			
Name (Printed): _____		Title: _____	
Signature: _____		Date: _____	

For Commission Use Only			
Reception Number: _____	001-111-02-68-232-11: _____	Ref No: _____	
001-111-02-98-232-01: _____	001-111-02-68-032-05: _____	001-108-01-70-232-13: _____	

Original to be mailed to the Washington Utilities and Transportation Commission, PO Box 47250, Olympia, WA 98504-7250
Web Site: www.utc.wa.gov Telephone: (360) 664-1237

Turn page over

1. Washington Unified Business Identifier (UBI) No.: _____
(If you do not know your UBI No. please contact the Department of Licensing at (360) 664-1400)
2. Current insurance company: _____
3. Insurance policy number: _____
4. Number of recordable intrastate and interstate accidents in 2007.

(please include the total recordable accidents for both intrastate and interstate passenger charter/excursion operations based in Washington.)

Recordable Accidents	Intrastate	Interstate
An occurrence involving a commercial vehicle on a public road in interstate or intrastate commerce that resulted in:		
A. A fatality.		
B. An injury to a person requiring immediate treatment away from the scene of the accident.		
C. Disabling damage to a vehicle, requiring it to be towed from the accident scene.		
Total number of recordable accidents		

5. Total operating miles for the year 2007:
 Intrastate _____ Interstate _____
Intrastate: Trips that begin and end within the state of Washington.
Interstate: Trips that begin or end outside the state of Washington.
6. Did you provide charter bus operations for any Washington school districts during 2007?
 Yes No

CERTIFICATION

Under penalty of perjury, I certify that I have examined this report, I am responsible for it, and it is in all respects a true and correct statement of the business and affairs of _____ for the period January 1, 2007, through December 31, 2007.
 (company name)

Name (Printed): _____ Title: _____

Signature: _____

Date signed: _____

Keep a copy of the completed report for your records.

End of safety report.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
P.O. Box 47250 Olympia, WA 98504-7250

CHARTER AND EXCURSION REGULATORY FEE CALCULATION SCHEDULE

Company Name _____ Regulatory fee year 2008

In accordance with RCW 81.70.350, the commission requires charter and excursion companies to file reports of the number of vehicles operated by the company in intrastate commerce at any time during the calendar year and pay the sum of \$25 annually for each vehicle operated. Every company subject to regulation shall file with the commission a statement under oath and pay to the commission a fee as calculated below.

1	Total number of vehicles used for intrastate charter or excursion operations during the year				1	
2	Total regulatory fee due (enter amount from line 1).		x 25.00	=	\$	
There is a minimum fee of \$25.00						
<p>Complete Lines 3 through 6 if filing after December 31</p>						
3	Penalties on regulatory fees filed after December 31				3	
3a	Total penalties on regulatory fees due (enter amount from line 2)	3a	\$	x .02 (2%)	=	\$
4	Interest on regulatory fees filed after December 31				4	
4a	Amount from line 2 _____ x number of months past December _____ x .01 (1%) =	4a	\$			
5	Total penalties and interest due (add lines 3a and 4a)				5	\$
<p align="center">Agency Use Only 001111 02:64 202111</p>						
6	Total regulatory, penalty and interest fees due (add lines 2 and 5)				6	\$

If you have questions about calculating your regulatory fee, penalties or interest, contact Brandy Sedillo at (360) 664-1152 or bsedillo@utc.wa.gov.

APPENDIX C

January 21, 2008

Subject: Charter and Excursion Annual Safety Report and Regulatory Fees

On November 19, 2007, the Washington Utilities and Transportation Commission (commission) mailed you a safety report and regulatory fee calculation form. The report and fees were due by December 31, 2007.

Our records indicate that we have not received a completed safety report or regulatory fees for 2008.

You have already incurred a penalty of 2% of the total amount due for failure to pay your 2008 regulatory fees by December 31, 2007. You will be charged 1% interest per month on the balance until it is paid in full.

Commission staff may recommend enforcement action, which includes penalties of up to \$100 per day, against any company that does not file a completed safety report. In order to avoid this enforcement action, you must file your safety report by January 31, 2008.

The safety report and regulatory fee forms are available on our web site at www.utc.wa.gov. If you have questions about how to complete the safety report call Tom McVaugh at (360) 664-1237 or e-mail him at tmcvaugh@utc.wa.gov. If you have questions about your regulatory fee, penalties or interest, call Brandy Sedillo at (360) 664-1156 or e-mail her at bsedillo@utc.wa.gov.

Sincerely,

Carole J. Washburn
Executive Secretary

Attachment B

01/30/2008 16:54 FAX 360 586 2011

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ES-179
2007

CHARTER & EXCURSION CARRIERS
ANNUAL SAFETY REPORT

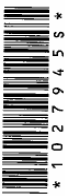
CH- _____ ES- _____ C- _____ MC- _____ DOT- _____

RAFAEL V. DE LEON BOYET TRANSPORT 3707 SO. PERRY ST. SEATTLE, WA 98118
Full name and address of Company

ENTERED IN COMPUTER FEB 07 2008
Correct name and address, if different than shown

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
for the
YEAR ENDED DECEMBER 31, 2007

CAC



Address inquiries concerning this Annual Safety Report to:

COMPANY CONTACT: BOYET TRANSPORT TITLE: SHUTTLE SERVICE
 ADDRESS: 3707 SO. PERRY ST.
 CITY: SEATTLE STATE: WA ZIP: 98118
 TELEPHONE: (206) 407-8580 FAX: (206) 760-1768 E-MAIL: _____

The company must notify the commission, in writing, of any changes to the above information.

TYPE OF PAYMENT - DO NOT SEND CASH IN THE MAIL <input checked="" type="checkbox"/> Check <input type="checkbox"/> Money Order <input type="checkbox"/> AMEX <input type="checkbox"/> Visa <input type="checkbox"/> MasterCard <input type="checkbox"/> Discover	For Commission Use Only Credit Card Authorization #: _____
Credit Card Number: _____	Expiration Date Month/Year _____
CERTIFICATION: I, the undersigned, under penalty for false statement, certify that the information is true, valid and correct, that I am authorized to execute on behalf of the applicant and that I agree to pay the above total amount according to card issuer agreement.	
Name (Printed): <u>RAFAEL V. DE LEON</u>	Title: _____
Signature: <u><i>Rafael V. de Leon</i></u>	Date: <u>FEB. 7, 2008</u>

For Commission Use Only	
Reception Number: <u>0005791</u>	001-111-02-68-232-11: _____ Ref No: _____
001-111-02-68-232-01: <u>25.00</u>	001-111-02-68-032-05: _____ 001-108-01-70-232-13: _____

Original to be mailed to the Washington Utilities and Transportation Commission, PO Box 47250, Olympia, WA 98504-7250
Web Site: www.utc.wa.gov Telephone: (360) 664-1237

RECEIVED
FEB 07 2008
WASH. UT. & TP. COMM.

#1150 \$25.00

Turn page over

1. Washington Unified Business Identifier (UBI) No.: 6018940230010001
(If you do not know your UBI No. please contact the Department of Licensing at (360) 664-1400)
2. Current insurance company: SUNSET Insurance
3. Insurance policy number: CA00185219
4. Number of recordable intrastate and interstate accidents in 2007.

(please include the total recordable accidents for both intrastate and interstate passenger charter/excursion operations based in Washington.)

Recordable Accidents	Intrastate	Interstate
An occurrence involving a commercial vehicle on a public road in interstate or intrastate commerce that resulted in:	0	0
A. A fatality.	0	0
B. An injury to a person requiring immediate treatment away from the scene of the accident.	0	0
C. Disabling damage to a vehicle, requiring it to be towed from the accident scene.	0	0
Total number of recordable accidents	0	0

5. Total operating miles for the year 2007:

Intrastate 1080 Interstate _____
Intrastate: Trips that begin and end within the state of Washington.
Interstate: Trips that begin or end outside the state of Washington.

6. Did you provide charter bus operations for any Washington school districts during 2007?
 Yes No

CERTIFICATION

Under penalty of perjury, I certify that I have examined this report, I am responsible for it, and it is in all respects a true and correct statement of the business and affairs of BOYET TRANSPORT for the period January 1, 2007, through December 31, 2007.
 (company name)

Name (Printed): RAFDEL V. DE LEON Title: _____

Signature: Rafael V. de Leon

Date signed: 1-30-08

Keep a copy of the completed report for your records.

End of safety report.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
 P.O. Box 47250 Olympia, WA 98504-7250

CHARTER AND EXCURSION REGULATORY FEE CALCULATION SCHEDULE

Company Name BOYET TRANS POYKI Regulatory fee year 2008

In accordance with RCW 81.70.350, the commission requires charter and excursion companies to file reports of the number of vehicles operated by the company in intrastate commerce at any time during the calendar year and pay the sum of \$25 annually for each vehicle operated. Every company subject to regulation shall file with the commission a statement under oath and pay to the commission a fee as calculated below.

1	Total number of vehicles used for intrastate charter or excursion operations during the year				1	1
2	Total regulatory fee due (enter amount from line 1)		x 25.00	=	\$	25.00
There is a minimum fee of \$25.00						

Complete Lines 3 through 6 if filing after December 31

3	Penalties on regulatory fees filed after December 31				3	
3a	Total penalties on regulatory fees due (enter amount from line 2)	\$	x .02 (2%)	=	\$	
4	Interest on regulatory fees filed after December 31				4	
4a	Amount from line 2 x number of months past December x .01 (1%) =				4a	\$ 25.00
5	Total penalties and interest due (add lines 3a and 4a)				5	\$ 0
6	Total regulatory, penalty and interest fees due (add lines 2 and 5)				6	\$ 25.00

If you have questions about calculating your regulatory fee, penalties or interest, contact Brandy Sedillo at (360) 664-1152 or bsedillo@utc.wa.gov.

WASHINGTON UTILITIES & TRANSPORTATION COMMISSION

P.O. Box 47250
Olympia, Washington 98504-7250
FAX Number: (360) 586-2011

FAX TRANSMITTAL

Date: January 30, 2008

FAX Number: (206) 760-1768

TO: Kataei DeLeon
Boyet Transportation

FROM: Carolyn Caruso
Compliance Specialist
(360) 664-1244

Comments: Per our phone conversation today, here is the Charter &
Excursion Carriers Annual Safety Report form.

Number of pages including cover sheet: 4

Please call (360) 664-1244 if you experience
a problem with this transmittal.

RECEIVED

FEB 07 2008

WASH. UT. & TP. COMM

Attachment C

FR. RAFAEL V. DE LEON
3707 So. PERRY ST.
SEATTLE WA 98148

SEATTLE WA 981
02 FEB 2008 PM 1 T



To: WUTC
WASHINGTON UTILITIES & TRANSPORTATION COMMISSION
P.O. BOX 47250

NIXIE 980 CC 1 01 02/05/08

RETURN TO SENDER
INSUFFICIENT ADDRESS
UNABLE TO FORWARD

IA

BC: 98118524107 *1728-07372-02-39



98118@5241