

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment	)	DOCKET TE-151004
Against	)	
	)	ORDER 01
ASPEN LIMO TOURS, LLC	)	
	)	ORDER GRANTING MITIGATION
in the amount of \$1,000	)	TO \$500
.....	)	

**BACKGROUND**

- 1 Washington law requires charter and excursion carriers to file annual reports and pay regulatory fees by May 1 of each year. WAC 480-30-071. On February 27, 2015, the Washington Utilities and Transportation Commission (Commission) mailed annual report and regulatory fee packets 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, 2015, 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 Aspen Limo Tours, LLC (Aspen Limo or Company) timely paid its regulatory fees but did not file its annual report on May 1, 2015, and had not made that filing by May 15. On June 8, the Commission assessed a penalty of \$1,000 against Aspen Limo, calculated as \$100 per business day from May 1 to May 15. The Company did not respond to the penalty assessment. On August 11, 2015, the Commission issued a Notice of Intent to Cancel Certification as a Charter and Excursion Carrier and Opportunity to Request a Hearing (Notice of Intent to Cancel).
- 3 On September 3, 2015, Aspen Limo paid the \$1,000 penalty. On September 4, the Company responded to the Commission’s penalty assessment, admitting the violations and requesting mitigation based on the written information provided. The Company explained that it mistakenly believed its annual report was filed by its operations manager, but later discovered it was not. The Company requested a refund of the \$1,000 penalty. On September 8, the Company filed an incomplete annual report.

- 4 On September 9, 2015, Commission staff (Staff) filed a response recommending a penalty reduction to \$25 per day, or \$250, contingent on the Company filing its completed annual report, because the Company became regulated in 2014 and therefore has no prior violations of WAC 480-30-071. Staff supports mitigation despite the Company's failure to respond to the penalty assessment within 15 days.

### **DISCUSSION**

- 5 WAC 480-30-071 requires charter and excursion carriers 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 We agree with Staff that mitigation is appropriate, but we are not willing to grant the same leniency afforded to those companies that timely respond to penalty assessments. Aspen Limo offered no explanation for failing to contact the Commission until it received the Notice of Intent to Cancel, nearly three months after the penalty assessment was served. Nevertheless, we have consistently granted mitigation to similarly situated companies in their first year of operation.
- 7 The Commission may consider a number of factors when entertaining a request for mitigation, including whether the violation was promptly corrected and the likelihood the violation will recur.<sup>1</sup> Although Aspen Limo has not yet corrected the violation, Staff notified the Company of the deficiency and expects the Company will come into compliance. The Commission will therefore exercise its discretion to reduce the penalty to \$500 conditioned on the Company filing its complete annual report no later than five business days from the date of this Order. If the Company files a complete annual report by September 21, 2015, a \$500 portion of the penalty will promptly be refunded. If the Company fails to file its complete annual report by that date, no portion of penalty will be refunded and the Company may be subject to further enforcement action.

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<sup>1</sup> Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission (January 7, 2013).

**ORDER**

THE COMMISSION ORDERS:

- 8 (1) Aspen Limo Tours, LLC's request for mitigation of the \$1,000 penalty is GRANTED in part, and the penalty is reduced to \$500 conditioned on Aspen Limo Tours, LLC filing a complete annual report no later than September 21, 2015. If Aspen Limo Tours, LLC completes its filing by that date, the remaining \$500 portion of the penalty will promptly be refunded.
- 9 (2) If Aspen Limo Tours, LLC fails to file its complete annual report by September 21, 2015, no portion of penalty will be refunded, and Aspen Limo Tours, LLC may be subject to further enforcement action.
- 10 (3) The \$1,000 penalty was paid in full on September 3, 2015.
- 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 September 14, 2015.

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.