[Service Date February 9, 2016]

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

NOTICE OF PENALTIES INCURRED AND DUE
FOR VIOLATIONS OF LAWS AND RULES

PENALTY ASSESSMENT: TC-160187
PENALTY AMOUNT: $29,200

SANI MAHAMA MAUROU
DBA SEATAC AIRPORT 24 (SEATAC 24)
1800 SOUTH JACKSON STREET SUITE 211
SEATTLE, WA 98144

The Washington Utilities and Transportation Commission (Commission) believes that you have committed multiple violations of Washington Administrative Code (WAC) 480-30-221 – Vehicle and Driver Safety Requirements, which requires passenger transportation companies to comply with Title 49, Code of Federal Regulations (CFR), Part 391 – Qualifications of Drivers and Part 396 – Inspection, Repair and Maintenance. Revised Code of Washington (RCW) 81.04.405 allows penalties of one hundred dollars for every such violation. In the case of an ongoing violation every day's continuance is considered a separate and distinct violation.

On December 1, 2015, Commission Motor Carrier Investigator Mathew Perkinson completed a compliance review of Sani Mahama Maurou dba SeaTac Airport 24 (SeaTac 24) and documented the following violations of critical regulations:

- **Two violations (247 occurrences) of CFR Part 391.45(b)(1) – Using a driver not medically examined and certified during the preceding 24 months.** SeaTac 24 used two drivers not medically certified on 247 occasions. Driver Ndow Yankuba drove on 114 occasions during the past six months without a valid medical certificate. Driver Sani Maurou drove on 133 occasions during the past six months without a valid medical certificate.

- **Two violations of CFR Part 391.51(a) – Failure to maintain a driver qualification file for each driver.** SeaTac 24 failed to maintain driver qualification files for two drivers, Ndow Yankuba and Sani Maurou.

- **Two violations of CFR Part 396.3(b) – Failure to keep minimum records of inspection and vehicle maintenance.** SeaTac 24 failed to keep records of inspection and maintenance for two vehicles.

- **41 violations of CFR Part 396.11(a) – Failure to require driver to prepare daily driver vehicle inspection reports (DVIR)** SeaTac 24 failed to require its drivers to complete daily DVIRs on at least 41 occasions. During the month of October, Driver

Ndow Yankuba failed to complete a DVIR for at least 19 trips. During October driver Sani Maurou failed to complete a DVIR for at least 22 trips.

The Commission considered the following factors in determining the appropriate penalties for these violations:

1. **How serious or harmful the violation is to the public.** The violations noted are serious and potentially harmful to the public. Companies that permit their employees to perform safety-sensitive functions, such as transporting passengers, prior to being medically examined and certified put the traveling public at risk. An undocumented medical condition could present serious safety concerns. In addition, vehicles that are not periodically inspected could potentially harm the public in the event of a malfunction or mechanical problem during transit.

2. **Whether the violation is intentional.** Considerations include:

   - Whether the Company ignored staff's previous technical assistance; and
   - Whether there is clear evidence through documentation or other means that shows the company knew of and failed to correct the violation.

   On October 9, 2014 Motor Carrier Safety Investigator John Foster met with Sani Mahama Maurou, dba SeaTac Airport 24 (SeaTac 24), at the company's office in Seattle. Mr. Foster provided technical assistance on the regulated aspects of the company's business, including hours of service, driver qualification, vehicle maintenance, annual vehicle inspections, insurance requirements and vehicle inspection reports. After receiving technical assistance in October 2014, Mr. Maurou, the company owner, was himself one of two company drivers who drove repeatedly without being medically examined and certified. The company knew, or should have known about these requirements.

3. **Whether the company self-reported the violation.** SeaTac 24 did not self-report these violations.

4. **Whether the company was cooperative and responsive.** The company received notice of the compliance review, along with instructions listing the documentation required, one week in advance of the actual appointment. When the Investigator arrived for the appointment, the company stated it was unprepared for the review and asked to reschedule. The review was conducted as scheduled. The company failed to prepare and produce most of the required documentation.

5. **Whether the company promptly corrected the violations and remedied the impacts.** Following the compliance review, driver Ndow Yankuba became medically certified. Otherwise, staff is unaware of any meaningful steps taken by SeaTac 24 toward correcting the violations.

6. **The number of violations.** The number of critical violations noted is significant.

7. **The number of customers affected.** Many customers were potentially put at risk by these violations. The company made 247 trips in the past six months using drivers that had not been medically examined or certified. During the same period, company drivers failed to conduct required daily vehicle safety inspections, and the company failed to maintain required vehicle inspection and maintenance files and driver qualification files.

8. **The likelihood of recurrence.** SeaTac 24 has received a proposed safety rating of unsatisfactory and must submit and have approved, a comprehensive safety management plan for corrective action within 45 days of that notice. Successful submission and completion of this plan is a key step toward preventing future violations.

9. **The company's past performance regarding compliance, violations, and penalties.** This was SeaTac 24's first safety compliance review, so the company has no previous history of violations. The company, however, has been penalized in docket TE-151029 for failure to file an annual report. The company filed the required annual report but has not paid the penalty portion, which has been sent to collections.

10. **The company's existing compliance program.** SeaTac 24's existing compliance program is inadequate in its ability to ensure compliance with critical safety regulations.

11. **The size of the company.** SeaTac 24 operates two passenger vans with two drivers, and reported approximately $90,000 in gross intrastate operating revenue for 2014.

The critical violations noted in staff's December 2015 compliance review were first-time violations by SeaTac 24. The Commission's Enforcement Policy provides that some Commission requirements are so fundamental to safe operations that the Commission will issue penalties for a first-time violation, regardless of whether staff has previously provided technical assistance on specific issues.[1]

Within these first-time violations are regulations so critical to public safety that RCW 81.04.405 and the Commission's enforcement policy support penalizing each occurrence. Other violations receive a single penalty for each violation type.

The Commission has considered these factors and determined that SeaTac 24 should be penalized **$29,200** for 292 violations of WAC 480-30-221, calculated as follows:

- 247 violations of CFR Part 391.45(b)(1) – Using a driver not medically examined and certified during the preceding 24 months, at $100 per violation for a total of $24,700 for these violations; plus

[1] Docket A-120061 – Enforcement Policy of the Washington Utilities & Transportation Commission – Section V.

- Two violations of CFR Part 391.51(a) – Failure to maintain a driver qualification file for each driver, at $100 per violation for a total of $200 for these violations; plus

- Two violations of CFR Part 396.3(b) – Failure to keep minimum records of inspection and vehicle maintenance, at $100 per violation for a total of $200 for these violations; plus

- 41 violations of CFR Part 396.11(a) – Failing to require a driver to prepare a vehicle inspection report, at $100 for a total of $4,100 for these violations.

The information in this notice, if proven at a hearing and not rebutted or explained, is sufficient to support the penalty assessment.

Your penalty is due and payable now. If you believe the violations did not occur, you may deny committing the violation and contest the penalty assessment through evidence presented at a hearing on the company's safety rating scheduled for **March 1, 2016**. The Commission will grant a request for hearing only if material issues of law or fact concerning the violation require consideration of evidence and resolution in a hearing. Any contest of the penalty assessment must include a written statement of the reasons supporting that contest. Failure to provide such a statement will result in denial of the contest.

If you admit the violation but believe there is a reason for the violations that should excuse you from the penalty, you may ask for mitigation (reduction) of this penalty through evidence presented at the March 1, 2016, hearing or in writing. Any request for mitigation must include a written statement of the reasons supporting that request. Failure to provide such a statement will result in denial of the request. *See* RCW 81.04.405.

If you properly present your request to present evidence at the March 1, 2016, hearing and the Commission grants that request, the Commission will review the evidence supporting your dispute of the violation or application for mitigation in the Brief Adjudicative Proceeding before an administrative law judge. The administrative law judge will consider the evidence and will notify you of his or her decision.

You must act within 15 days after receiving this notice to do one of the following:

- Pay the amount due.
- Request to present evidence at the March 1, 2016, hearing to contest the occurrence of the violations.
- Request mitigation to contest the amount of the penalty.

Please indicate your selection on the enclosed form and send it to the Washington Utilities and Transportation Commission, Post Office Box 47250, Olympia, Washington 98504-7250, **within FIFTEEN (15) days** after you receive this notice.

If you do not act within 15 days, the Commission may refer this matter to the Office of the Attorney General for collection. The Commission may then sue you to collect the penalty.

DATED at Olympia, Washington, and effective February 9, 2016.

GREGORY J. KOPTA
Administrative Law Judge

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TC-160187

PLEASE NOTE: You must complete and sign this document, and send it to the Commission within 15 days after you receive the penalty assessment. Use additional paper if needed.

I have read and understand RCW 9A.72.020 (printed below), which states that making false statements under oath is a class B felony. I am over the age of 18, am competent to testify to the matters set forth below and I have personal knowledge of those matters. I hereby make, under oath, the following statements.

[ ] 1. **Payment of penalty.** I admit that the violation occurred and enclose $_____ in payment of the penalty.

[ ] 2. **Request for a hearing.** I believe that the alleged violation did not occur for the reasons I describe below, and I request to present evidence at the March 1, 2016, hearing based on those reasons for a decision by an administrative law judge:

[ ] 3. **Application for mitigation.** I admit the violation, but I believe that the penalty should be reduced for the reasons set out below:

[ ] a) I ask to present evidence at the March 1, 2016, hearing on the information I provide above to an administrative law judge for a decision

OR [ ] b) I ask for a Commission decision based solely on the information I provide above.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing, including information I have presented on any attachments, is true and correct.

Dated: _____ [month/day/year], at _____ [city, state]

_____ _____

Name of Respondent (company) – please print Signature of Applicant

RCW 9A.72.020:

"Perjury in the first degree. (1) A person is guilty of perjury in the first degree if in any official proceeding he makes a materially false statement which he knows to be false under an oath required or authorized by law. (2) Knowledge of the materiality of the statement is not an element of this crime, and the actor's mistaken belief that his statement was not material is not a defense to a prosecution under this section. (3) Perjury in the first degree is a class B felony."