

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET TE-170653
TYSON GLAWE, LLC	ORDER 01
in the amount of \$1,000	DENYING MITIGATION

BACKGROUND

- 1 On February 28, 2017, the Washington Utilities and Transportation Commission (Commission) mailed annual report and regulatory fee forms to all charter and excursion carrier companies. The forms included a reminder that companies must file their annual reports and pay their regulatory fees by May 1, 2017, 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 Tyson Glawe, LLC (Tyson Glawe or Company) did not file an annual report on May 1, 2017, and had not made that filing by May 15. On June 21, 2017, the Commission assessed a penalty of \$1,000 against Tyson Glawe, calculated as \$100 per business day from May 1 to May 15.
- 3 On July 3, 2017, Tyson Glawe filed a complete annual report and paid its regulatory fee. On July 10, the Company responded to the Commission's penalty assessment, admitting the violations and requesting mitigation based on the information provided. In its response, the Company stated, "I am asking for a reducing in penalty due to the following reasons: 1 – As I was selected for a safety compliance review Monday, April 3, there is a good amount of paperwork involved in getting ready for a review. 2 – I was issued a reminder from USDOT to complete my Biennial update before April 30, 2017. (Very similar to the WUTC report) 3 – I am recently a 1st time father as of April 13, 2017. There is quite a bit of prep work before and after the birth of a new child." The Company further explained that the penalty will create a financial hardship.
- 4 On July 31, 2017, Commission staff (Staff) filed a response recommending the Commission deny the Company's request for mitigation. The penalty assessment notified the Company that mitigation would only be granted if the Company could demonstrate that the violations occurred due to circumstances beyond its control. Because Tyson

Glawe failed to identify any such circumstances, Staff does not support the Company's request.

DISCUSSION

- 5 WACs 480-30-071 and 480-30-076 require charter and excursion carrier companies 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 of the penalty is not appropriate in the circumstances presented here. The penalty assessment advised the Company that a request for mitigation will only be granted if the violations occurred due to circumstances beyond its control.¹ Tyson Glawe's explanation for its late filing – that it mistakenly overlooked the requirement – is expressly identified in the penalty assessment as an unacceptable basis for granting mitigation. Although we are sensitive to the Company's financial situation, financial hardship was similarly identified as an unacceptable basis for granting mitigation. Accordingly, we find that Tyson Glawe failed to demonstrate that the violations occurred due to circumstances beyond its control, and conclude that its request for mitigation should be denied.
- 7 To reduce the financial impact of the penalty, the Company may work with Staff to establish a mutually agreeable payment arrangement.

ORDER

THE COMMISSION ORDERS:

- 8 (1) Tyson Glawe, LLC's request for mitigation of the \$1,000 penalty is DENIED.

¹ Those circumstances include, but are not limited to: death or serious illness of the person responsible for filing the report, or a member of that person's immediate family; destruction by fire or other casualty of the company's place of business or business records; or an act of fraud, embezzlement, theft, or conversion on the part of an employee. Circumstances that do not qualify as an acceptable basis for requesting mitigation include: financial hardship; a misunderstanding or lack of knowledge of Commission rules; failure to receive an annual report form from the Commission; mistakes or misconduct on the part of an employees; employee termination or turnover; personal events such as weddings or graduation ceremonies; and vacations or business trips.

9 (2) Tyson Glawe, LLC must either pay the \$1,000 penalty or file jointly with Staff a proposed payment arrangement no later than September 20, 2017.

10 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 6, 2017.

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.