

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET TC-190130
PACIFIC NORTHWEST TRANSPORTATION SERVICES, INC., d/b/a CAPITAL AEROPORTER	ORDER 01
in the amount of \$800	GRANTING MITIGATION TO \$400

BACKGROUND

- 1 On March 19, 2019, the Washington Utilities and Transportation Commission (Commission) assessed an \$800 penalty (Penalty Assessment) against Pacific Northwest Transportation Services, Inc., d/b/a Capital Aeroporter (Capital Aeroporter or Company) for eight critical violations of Washington Administrative Code (WAC) 480-30-221, which adopts by reference Title 49 Code of Federal Regulations (C.F.R.) Part 391 related to driver qualifications.¹
- 2 On March 19, 2019, Capital Aeroporter responded to the Penalty Assessment, admitting the violations and requesting mitigation of the penalty based on the written information provided. In its response, the Company explained that it mistakenly believed its driver had renewed his medical certificate. The Company further explained that the violations have since been corrected, and that it has developed a shared calendar system to prevent the violation from reoccurring.
- 3 On March 29, 2019, Commission staff (Staff) filed a response recommending the Commission grant the Company's request for mitigation, in part. The Penalty Assessment assessed an \$800 penalty for eight violations of 49 C.F.R. Part 391.45(a). Staff recommends the Commission assess a reduced penalty of \$400 because these are first-time violations and the Company took prompt corrective action.

¹ 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.

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 inspections are subject to penalties of \$100 per violation.² In some cases, Commission requirements are so fundamental to safe operations that the Commission will issue penalties for first-time violations.³ Violations defined by federal law as “critical,” which are indicative of a breakdown in a carrier’s management controls, meet this standard.⁴
- 5 The Commission considers several factors when entertaining a request for mitigation, including whether the company introduces new information that may not have been considered in setting the assessed penalty amount, or explains other circumstances that convince the Commission that a lesser penalty will be equally or more effective in ensuring the company’s compliance.⁵
- 6 The Penalty Assessment assessed an \$800 penalty for eight violations of 49 C.F.R. Part 391.45(a) because Capital Aeroporter allowed a driver who was not medically examined and certified to drive on eight occasions in October 2018. In its response, the Company explained that it immediately corrected the violations and created a system to ensure compliance going forward.
- 7 Staff recommends the Commission assess a reduced penalty of \$400 because these are first-time violations and the Company ensured its driver was medically examined and certified prior to receiving the Penalty Assessment. We agree. In its response, the Company acknowledged the violations and provided assurances of future compliance. In light of these factors, we assess a \$400 penalty for eight violations of 49 C.F.R. Part 391.45(a).

² See RCW 81.04.405.

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

⁴ 49 C.F.R. § 385, Appendix B.

⁵ Enforcement Policy ¶19.

FINDINGS AND CONCLUSIONS

- 8 (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.
- 9 (2) Capital Aeroporter is an auto transportation company subject to Commission regulation.
- 10 (3) Capital Aeroporter violated 49 C.F.R. Part 391.45(a) when it allowed one driver who was not medically examined and certified to drive on eight occasions in October 2018.
- 11 (4) Capital Aeroporter should be penalized \$400 for eight violations of 49 C.F.R. Part 391.45(a).

ORDER

THE COMMISSION ORDERS:

- 12 (1) Pacific Northwest Transportation Services, Inc., d/b/a Capital Aeroporter's request for mitigation of the \$800 penalty is GRANTED, in part, and the penalty is reduced to \$400.
- 13 (2) The penalty is due and payable by April 15, 2019.
- 14 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 April 1, 2019.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK L. JOHNSON
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.