

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

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| In the Matter of a Penalty Assessment Against | DOCKET TE-191058 |
| ASSURE RIDE NON EMERGENCY MEDICAL TRANSPORTATION COMPANY, LLC, D/B/A ASSURE RIDE, | ORDER 01 |
| in the amount of \$1,700 | GRANTING MITIGATION TO \$850 |

BACKGROUND

1 On January 8, 2020, the Washington Utilities and Transportation Commission (Commission) assessed a \$1,700 penalty (Penalty Assessment) against Assure Ride Non Emergency Medical Transportation Company, LLC, d/b/a Assure Ride, (Assure Ride or Company) for 13 violations of Washington Administrative Code (WAC) 480-30-191, Bodily Injury and Property Damage Liability Insurance, and WAC 480-30-221, which adopts by reference Title 49 Code of Federal Regulations (C.F.R.) Part 382 – Controlled Substance and Alcohol Use and Testing, and 49 C.F.R. Part 383 – Commercial Driver’s License Standards; Requirements and Penalties.¹ The Penalty Assessment includes:

- A \$600 penalty for six violations of WAC 480-30-101 for operating a motor vehicle without having in effect the required minimum levels of financial responsibility coverage.
- A \$600 penalty for six violations of 49 C.F.R. § 383.37(a) for allowing drivers to operate a commercial vehicle designed for 16 passengers without a valid commercial driver’s license (CDL) on six occasions.
- A \$500 penalty for one violation of 49 C.F.R. § 382.301(a) for using a driver before receiving a negative pre-employment controlled substance test result.

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.

- 2 On December 31, 2019, Assure Ride submitted to Commission staff (Staff) a corrective action safety plan, acknowledging the violations and providing supporting documentation of the corrections made to prevent violations from reoccurring.
- 3 On February 13, 2020, the Company filed with the Commission an application for mitigation of penalties (Application). In the Application, Assure Ride admits the violations and asks that the penalty be reduced.
- 4 On February 14, 2020, Staff filed a response recommending the Commission assess a reduced penalty of \$850.

DISCUSSION AND DECISION

- 5 Washington law requires charter and excursion carriers to comply with federal safety requirements and undergo routine safety inspections. In some cases, Commission requirements are so fundamental to safe operations that the Commission will issue penalties for first-time violations.² Violations defined by federal law as “critical” meet this standard.³
- 6 Violations classified as “critical” are indicative of a breakdown in a carrier’s management controls. Critical violations are subject to penalties of \$100 per violation.⁴ Violations of Title 49 C.F.R. § 382 are subject to an additional \$500 for each motor vehicle driver employed by the carrier who is not in compliance with the motor vehicle driver testing requirements.⁵
- 7 The Commission will, however, consider 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.⁶ The Commission also considers whether the

² Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission ¶12 (Jan. 7, 2013) (Enforcement Policy).

³ 49 C.F.R. § 385, Appendix B.

⁴ See RCW 81.04.405.

⁵ See RCW 81.04.580.

⁶ Enforcement Policy ¶19.

violations were promptly corrected, a company's history of compliance, and the likelihood the violation will recur.⁷

- 8 The Penalty Assessment includes a \$600 penalty for six violations of WAC 480-30-191 for operating a motor vehicle without having in effect the required minimum levels of financial responsibility insurance coverage, and a \$600 penalty for six violations of 49 C.F.R. § 383.37(a) because Assure Ride allowed employees who did not have CDLs to operate its 16-passenger vehicle on six occasions. In its response, the Company stated that it has corrected both violations by selling its 16-passenger commercial motor vehicle.
- 9 Staff recommends the Commission reduce the penalty for these two violation categories by half because the company corrected the violations during the safety investigation when it sold its 16-passenger vehicle. In addition, the Company now has adequate levels of insurance. We agree. In its response, the Company acknowledged the violations and took prompt action to correct the violations and prevent repeat occurrences. In light of these factors, we assess a \$600 penalty for six violations of WAC 480-30-191 and six violations of 49 C.F.R. § 383.37(a).
- 10 The Penalty Assessment also included a \$500 penalty for one violation of 49 C.F.R. § 382.301(a) because the Company allowed an employee to operate a commercial vehicle prior to receiving a negative pre-employment controlled substance test result. This violation was also corrected by the Company selling its 16-passenger vehicle.
- 11 Staff recommends the penalty be reduced by half because the Company immediately corrected the violation and implemented a new-hire process to include pre-employment controlled substance testing, which exceeds the Company's safety requirements because it no longer operates a 16-passenger vehicle. We agree with Staff's recommendation and assess a reduced penalty of \$250.

FINDINGS AND CONCLUSIONS

- 12 (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 charter and excursion service carriers, and has jurisdiction over the parties and subject matter of this proceeding.
- 13 (2) Assure Ride is a charter and excursion service carrier subject to Commission regulation.

⁷ Enforcement Policy ¶15.

- 14 (3) Assure Ride violated WAC 480-30-191 when it operated a motor vehicle without having in effect the required minimum levels of financial responsibility coverage on six occasions.
- 15 (4) Assure Ride should be penalized \$300 for six violations of WAC 480-30-191.
- 16 (5) Assure Ride violated 49 C.F.R. §383.37(a) when it allowed drivers to operate a commercial motor vehicle without possessing a current CDL on six occasions.
- 17 (6) Assure Ride should be penalized \$300 for six violations of 49 C.F.R. § 382.301(a).
- 18 (7) Assure Ride violated 49 C.F.R. § 382.301(a) when it allowed a driver to operate a commercial vehicle before receiving a negative pre-employment controlled substance test result.
- 19 (4) Assure Ride should be penalized \$250 for one violation of 49 C.F.R. § 382.301(a).

ORDER

THE COMMISSION ORDERS:

- 20 (1) Assure Ride Non Emergency Medical Transportation Company, LLC, d/b/a Assure Ride's request for mitigation of the \$1,700 penalty is GRANTED, in part, and the penalty is reduced to \$850.
- 21 (2) Assure Ride Non Emergency Medical Transportation Company, LLC, d/b/a Assure Ride, must pay the penalty no later than March 12, 2020.
- 22 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 February 27, 2020.

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.