

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In re Penalty Assessment No.)	DOCKET NO. TC-031704
TC-031704)	
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)	
WICKKISER INTERNATIONAL)	STAFF RESPONSE TO
COMPANIES, INC.)	PLEA FOR MITIGATION
)	

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1 On November 10, 2003, the Commission issued a penalty assessment against Wickkiser International Companies, Inc. (Wickkiser) in the amount of \$1,800 for violations of RCW 81.28.080, WAC 480-30-030, WAC 480-30-050, and WAC 480-30-060, which set requirements for certificates for auto transportation companies, naming rates, fares, and time and route schedules in a company's tariff.

2 On December 1, 2003, Richard Johnson, Wickkiser's General Manager, filed a petition for mitigation of the penalty assessment.

3 For each item in the penalty assessment, the Company's mitigation requests and Staff's response are discussed below.

Conflicting Tariff Rates - Child Rates

4 The Commission issued \$300.00 in penalties for violations of RCW 81.28.080 and WAC 480-30-050 because Wickkiser charges a rate for children under three years of age, which is not an approved rate in the tariff. The tariff states children aged two and under ride for free.

5 The Company requests full mitigation of this penalty because children three and under (or "infants" as referred to by the Company), represent less than one quarter of one percent of the passengers carried. Wickkiser asserts that the Company has not financially gained from the "infant" fare. (Note that the company maintains in its mitigation request that it charges "\$3.00 for a one way and \$6.00 for a round trip infant" fare, however, according to the Company's website, the charge is \$6.00 one way and \$12.00 round trip for children under three.)

6 Staff recommends no mitigation of this penalty. The Company's tariff has not been revised, and Wickkiser is charging a rate not approved by the Commission.

The low number of child passengers Wickkiser carries is irrelevant. If a customer were to refer to the tariff for the Company's rates, they would expect that a child under two would be carried for free, when the company actually charges \$12.00 round trip.

Youth Rates

7 The Commission issued \$300.00 in penalties for violations of RCW 81.28.080 and WAC 480-30-050 because Wickkiser applies different age criteria for youth fares than are listed in the tariff, and therefore charges rates not approved in the tariff.

8 The Company requests full mitigation of this penalty because a more reasonable correction, in the Company's opinion, would have been for Staff to advise Wickkiser of the discrepancy in the tariff and to ask the Company to file a tariff revision.

9 Staff recommends no mitigation of this penalty. WAC 480-30-050 requires every auto transportation company to file copies of any amendments to its tariff with the Commission. As stated in Wickkiser's mitigation request, the Company has operated in Washington for 18 years. In the last 10 years, Wickkiser has filed twenty-one tariff revisions, including time schedule changes, rate increases, changes to operating policies, route changes, and fare changes. This demonstrates that the Company is well aware of the Commission's requirements for filing amendments to the tariff when the Company's business practices change.

Unaccompanied Minor Rates

10 The Commission issued \$300.00 in penalties for violations of RCW 81.28.080 and WAC 480-30-050 because Wickkiser charges \$40-per-hour for an unaccompanied minor; a rate not approved in the Company's tariff.

11 The Company requests full mitigation of this penalty because the \$40.00 per hour charge is only applied if parents are "negligent and not at SeaTac to pick up their child."

12 Staff recommends no mitigation of this penalty. The Company's tariff does not reflect the \$40.00 charge, and the charge has not been approved by the Commission.

Group & Frequent Traveler Rates

13 The Commission issued \$200.00 in penalties for violations of RCW 81.28.080 and WAC 480-30-050 because Wickkiser provides discounted rates to groups and frequent travelers that differ from the approved rates in the Company's tariff.

14 The Company requests full mitigation of this penalty because group and frequent traveler discounts have been clarified and amended in the tariff.

15 Staff recommends mitigation of this portion of penalty in full. The Company revised the tariff to clarify the discounts offered. While revisions to the tariff should have been made at the time of the change in operating practices, Staff finds that this change is a re-characterization of the Company's previously offered discounts, making them easier for customers to understand.

Time & Route Schedules

16 The Commission issued \$600.00 in penalties for violations of WAC 480-30-060 because Wickkiser changed its route schedules prior to filing revisions to the tariff or providing proper notice to the Commission or the public.

17 The Company requests full mitigation of this penalty. In its mitigation request, Wickkiser states, "...WIC should have notified the commission one day in advance of these service improvements. Albeit 10 days late, WIC did notify the commission of the service change prior to the complaint being made by our competitor."

18 Staff recommends no mitigation of this penalty. The Company did not provide the Commission or the public with proper notice of the schedule changes.

Certificate Authority

19 The Commission issued \$100.00 in penalties for a violation of WAC 480-30-030 because Wickkiser advertises and sells services to Central Washington, an area not within the Company's authority to serve.

- 20 The Company requests full mitigation of this penalty. Wickkiser states it is a vendor to Central Washington Airporter (CWA), the company that actually provides the services to Central Washington. Wickkiser states it is prepared to immediately revise the website to clearly identify CWA as the provider of service.
- 21 Staff recommends the Commission mitigate this portion of the penalty in full. Unlike issues such as rate and schedule changes, the Commission has not provided clear guidance to companies on website advertising. Staff will work with the Company on updating the website accordingly.
- 22 **Summary**
Staff recommends the Commission grant partial mitigation of the penalty assessment against Wickkiser International Companies, Inc. in Docket No. TC-031704, and that the penalty of \$1,800 be reduced to \$1,500.

Dated January 16, 2004