

[Service Date April 2, 2009]

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

In the Matter of a Penalty Assessment)	DOCKET TE-090225
Against)	
)	ORDER 01
JANSSEN CHARTERS & TOURS, INC.,)	
)	
in the amount of \$200.)	ORDER GRANTING MITIGATION
)	
.....)	

1 **Penalty.** On February 23, 2009, the Washington Utilities and Transportation Commission (Commission) assessed a penalty in Docket TE-090225 in the amount of \$200 against Gordon E. Janssen d/b/a Janssen Charters & Tours (Janssen), for violation of Washington Administrative Code (WAC) 480-30-071, which requires charter and excursion carriers to file annual reports with the Commission by December 31 each year. The Commission alleged that Janssen failed to file its annual report for two consecutive years.

2 The penalty assessment contained language advising Janssen that the company was required to act within 15 days of receiving the notice to either pay the amount due, request a hearing to contest the alleged violations, or request mitigation to contest the amount of the penalty. The penalty assessment was served on Janssen by certified mail.

3 **Mitigation Request and Jurisdiction.** RCW 80.04.405 allows the Commission to consider remission or mitigation of penalties “upon written application therefor, received within fifteen days.” On February 26, 2009, Mrs. Connie Janssen responded and timely requested an administrative decision on the matter, but waived the company’s right to a hearing. Therefore, the Commission has jurisdiction to consider the company’s application for mitigation and issue a decision without a hearing.

4 **Admission of Violation and Prompt Resolution.** Mrs. Janssen’s letter explained that she and her husband, Gordon Janssen, had been operating the tour company as a husband and wife team since 1982. However, her husband suddenly passed away in July 2008 and he had been primarily responsible for and familiar with the business paperwork. Since summer 2008, Mrs. Janssen has tried to keep the company going but did not know about the annual report requirement. Mrs. Janssen’s letter included a completed annual report for the company and, because her income (aside from that generated by the tour company)

is derived from social security and a state retirement from her teaching career, sought adjustment of the penalty imposed.

5 **Commission Staff Response.** On March 23, 2009, Commission Staff filed a response indicating its support of Mrs. Janssen’s application for mitigation under her current circumstances. However, Commission Staff recommended that Mrs. Janssen fully inform herself of all applicable regulatory requirements if she intends to continue operating the charter company.

6 **Regulatory Requirements – Annual Reports.** WAC 480-30-071(2) requires the Commission to provide and each charter or excursion carrier company to complete and return an Annual Safety Report no later than December 31 of each year.

7 **Commission Decision.** In this case, the Commission provided the required annual report form to Janssen in November 2008; the Commission also sent a reminder letter to the company in January 2009. Mrs. Janssen failed to respond to either of these mailings and Janssen Charters & Tours failed to timely file its required annual report for 2008. Nevertheless, recognizing the hardships caused by the recent loss of her husband, the Commission grants Mrs. Janssen’s application for mitigation.

8 The Commission encourages voluntary compliance with its regulations and resorts to penalties only when necessary. Here, Mrs. Janssen readily admitted her mistake and took appropriate corrective action. Further, Commission Staff supports the company’s request for mitigation. Therefore, we take this as an instructional opportunity for Mrs. Janssen as she takes over the company’s operations.

9 The company paid a \$100 penalty for failure to timely file its annual report in 2007. Normally, the Commission takes a progressive approach to imposing penalties and would assess a \$200 penalty for a second offense. Although this is the second consecutive year that Janssen Charters & Tours failed to file its annual report on time, we will not consider this instance as a “second offense” due to Mrs. Janssen’s recent assumption of primary responsibilities for the company due to the death of her husband. Given the circumstances in this matter, we suspend the entire amount of the penalty assessment against Janssen Charters & Tours on condition that the company files its future annual reports on time.

10 The suspended penalty assessment shall be vacated on December 31, 2009, when the company submits its next complete and timely annual report to the Commission. If, however, Janssen Charters & Tours fails to file its next annual report on time, the entire

amount of the original penalty assessment (\$200) will immediately become due and payable.

- 11 In order to prevent any recurrence and future penalties, Mrs. Janssen is advised to seek technical advice from Commission Staff with regard to any questions about the company's regulatory obligations.
- 12 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 2, 2009.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER
Executive Director and Secretary

NOTICE TO PARTIES: This is an order delegated to the Executive Secretary for decision. Under WAC 480-07-904(3), you may seek Commission review of this decision. In addition to serving you a copy of the decision, the Commission will post on its Internet Web site for at least 14 days a listing of all matters delegated to the Executive Secretary for decision under WAC 480-07-904(1). You must file a request for Commission review of this order no later than fourteen (14) days after the date the decision is posted on the Commission's Web site. The Commission will schedule your request for review for consideration at a regularly scheduled open meeting. The Commission will notify you of the time and place of the open meeting at which the Commission will review the order.

The Commission will grant a late-filed request for review only on a showing of good cause, including a satisfactory explanation of why the person did not timely file the request. A form for late-filed requests is available on the Commission's Web site.