

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

In the Matter of the Penalty	)	DOCKET TN-100260
Assessment Against	)	
	)	ORDER 01
INTERNATIONAL DISTRICT	)	
PARKING ASSOCIATION D/B/A	)	ORDER DENYING MITIGATION;
MERCHANTS PARKING	)	REQUIRING PAYMENT OF
ASSOCIATION/TRANSIA	)	PENALTY
	)	
in the Amount of \$100	)	
	)	
.....	)	

- 1 **Penalty Assessment:** On February 18, 2010, the Washington Utilities and Transportation Commission (Commission) assessed a penalty of \$100 against International District Parking Association d/b/a Merchants Parking Association/Transia (Merchants Parking or Company) for a violation of WAC 480-30-221, concerning vehicle and driver safety requirements. The rule requires that passenger charter carriers comply with the provisions in Title 49, Code of Federal Regulations (CFR) Part 391, which govern the qualification of drivers. Specifically, during a compliance review of the Company, Commission Motor Carrier Investigator Ray Gardner identified a violation of 49 CFR Part 391.45(b)(1) by the Company using a driver not medically examined and certified during the preceding 24 months. The Commission advised Merchants Parking that it was required to act within 15 days of receiving the notice either to pay the amount due, request a hearing to contest the alleged violation, or request mitigation to contest the amount of the penalty.
  
- 2 **Application for Mitigation:** On February 24, 2010, Merchants Parking filed a timely Application for Mitigation, waiving a hearing and requesting an administrative decision. Idris Elhamar, the Operations Manager for the Company, asserts that he “was under the assumption that only CDL drivers cannot drive with [an] expired medical card.” Mr. Elhamar attached to the mitigation request a copy of the driver’s current medical card.

3 **Response to Application for Mitigation:** On March 11, 2010, Commission Staff  
(Staff)<sup>1</sup> filed its response to the Application for Mitigation through the Declaration of  
Betty Young, opposing mitigation.

4 Ms. Young states that Merchants Parking received previous technical assistance from  
Commission Staff on the requirements for medical cards for non-CDL-drivers. She  
identifies an October 2007 compliance review conducted by former Commission  
Motor Carrier Investigator Leon Macomber in which Mr. Macomber found that the  
Company had used a driver not medically examined and certified. Ms. Young  
attached a copy of the compliance review to her declaration. The report, attached to  
Ms. Young's Declaration, recommends that the Company "Make sure all Non-CDL  
drivers as well as CDL drivers have a current medical certificate." Ms. Young reports  
that Mr. Elhamar signed the report, acknowledging receipt and agreeing that the  
findings had been discussed with him in detail.

5 Ms. Young asserts that the Commission's Motor Carrier Safety Section takes very  
seriously any violations concerning driver qualifications that may endanger public  
safety, such as drivers without medical cards. Because the Commission has provided  
Merchants Parking technical assistance on the requirements of WAC 480-30-221,  
Staff opposes mitigation and recommends the Commission apply the full penalty.

6 **Commission Decision:** The Commission, consistent with its Motor Carrier Safety  
Section, takes seriously violations of motor carrier safety laws, particularly those that  
endanger public safety. Allowing drivers to operate passenger vehicles without  
having a medical examination and a certificate demonstrating that examination,  
presents a risk of an unfit driver and risk of injury to passengers. Contrary to the  
statement in its Application for Mitigation, the Company – in particular its Operations  
Manager – was advised previously of the requirement for all drivers, not just CDL  
drivers, to have a medical certificate. Having been provided technical assistance  
about compliance with WAC 480-30-221, the Company is responsible for ensuring  
compliance with the rule.

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<sup>1</sup> In formal proceedings, such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. See, RCW 34.05.455.

7 The Commission concurs with Staff that mitigation of the penalty is not appropriate.  
The \$100 penalty assessed by the Commission is due and payable within 15 days of  
the date of this Order.

8 It is so ordered.

9 The Commissioners have delegated authority to the Executive Secretary to enter this  
Order pursuant to RCW 80.01.030 and WAC 480-07-905(1)(h).

Dated at Olympia, Washington, and effective March 22, 2010.

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. 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. You may seek Commission review of this decision. 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.

This notice and review process is pursuant to the provisions of RCW 80.01.030 and WAC 480-07-904(2) and (3).