

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET TC-170577
PACIFIC NORTHWEST DISTRIBUTING, LLC	ORDER 01
in the amount of \$1,000	DENYING CONTEST OF VIOLATIONS; DENYING MITIGATION

**BACKGROUND**

- 1 On February 28, 2017, the Washington Utilities and Transportation Commission (Commission) mailed annual report and regulatory fee forms to all auto transportation and charter and excursion carriers. The forms included a reminder that companies must file their annual reports and pay their regulatory fees by May 1, 2017, or face penalties of \$100 for each violation of Commission rules. In the case of continuing violations, each day's continuance is a separate violation. RCW 80.04.405.
- 2 Pacific Northwest Distributing, LLC (PND or Company) did not file an annual report on May 1, 2017, and had not made that filing by May 15. On July 7, 2017, the Commission assessed a penalty of \$1,000 against PND, calculated as \$100 per business day from May 1 to May 15.
- 3 On July 20, 2017, PND responded to the Commission's penalty assessment, contesting the violations and requesting mitigation based on the written information provided. In its response, the Company states, "... a complete report was filed on time and fees paid ... Because the requested format of the report is a documentary fiction appropriate only to partnerships and corporations, we believed the reports to be substantial and correct for all intents and purposes."
- 4 On August 8, 2017, Commission staff (Staff) filed a response recommending the Commission deny the Company's request for mitigation. The penalty assessment notified the Company that mitigation would only be granted if the Company could demonstrate that the violations occurred due to circumstances beyond its control. Because PND failed to identify any such circumstances and the Company's report remains outstanding, Staff does not support the Company's request. Staff further explains that because PND has

dual authority with the Commission to provide both auto transportation and charter and excursion carrier service, it must complete the annual report form designated for carriers that have dual authority. Instead, PND filed an incomplete auto transportation annual report on May 1. The Company has neither provided complete information for its auto transportation operations nor reported its charter and excursion carrier operations.

### **DISCUSSION**

5 WAC 480-30-071 and WAC 480-30-076 require both auto transportation and charter and excursion companies to file annual reports by May 1 of each year. Companies are responsible for complying with their legal obligations, and the Company should have ensured its complete report was timely filed.

6 As a preliminary matter, we deny the Company's contest of the violations. The undisputed facts show that, as of the date of this Order, the Commission has not received the Company's complete annual report. The Company has thus violated the law.

7 We also agree with Staff that mitigation of the penalty is not appropriate in the circumstances presented here. The penalty assessment advised the Company that a request for mitigation will only be granted if the violations occurred due to circumstances beyond its control.<sup>1</sup> PND's explanation for its failure to file a complete annual report demonstrates a misunderstanding of Commission rules and requirements, which is expressly identified in the penalty assessment as an unacceptable basis for requesting mitigation. Accordingly, we find that PND failed to demonstrate that the violations occurred due to circumstances beyond its control, and conclude that its request for mitigation should be denied.

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<sup>1</sup> Those circumstances include, but are not limited to: death or serious illness of the person responsible for filing the report, or a member of that person's immediate family; destruction by fire or other casualty of the company's place of business or business records; or an act of fraud, embezzlement, theft, or conversion on the part of an employee. Circumstances that do not qualify as an acceptable basis for requesting mitigation include: financial hardship; a misunderstanding or lack of knowledge of Commission rules; failure to receive an annual report form from the Commission; mistakes or misconduct on the part of an employee; employee termination or turnover; personal events such as weddings or graduation ceremonies; and vacations or business trips.

**ORDER**

THE COMMISSION ORDERS:

- 8 (1) Pacific Northwest Distributing, LLC's request for mitigation of the \$1,000  
penalty is DENIED.
- 9 (2) The \$1,000 penalty is due and payable no later than September 14, 2017.
- 10 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 August 31, 2017.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

STEVEN V. KING  
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.**