

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

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| In the Matter of the Penalty Assessment |) | DOCKET TE-090229 |
| Against |) | |
| |) | ORDER 01 |
| ALPHA OMEGA TOURS & CHARTERS, |) | |
| INC., |) | |
| |) | ORDER DENYING MITIGATION |
| in the Amount of \$100.00 |) | |
| |) | |
| |) | |

1 **Penalty:** On February 12, 2009, the Washington Utilities and Transportation Commission (Commission) assessed a penalty in the amount of \$100 against Alpha Omega Tours & Charters (Alpha Omega Tours or Company) for one violation of WAC 480-30-071, which requires auto transportation carriers to file annual reports with the Commission no later than December 31 of each year.

2 **Petition for Mitigation:** On March 12, 2009, Alpha Omega Tours filed a petition for mitigation and waived a hearing. Alpha Omega Tours stated that its failure to file an annual report on time was not intentional. The Company stated that the Spokane area received 80 inches of snow in December which created numerous problems for the transportation business. Alpha Omega Tours asserted that the company was focused on addressing weather and equipment issues and that the notice from the Commission simply got buried. The Company requested that the penalty be waived.

3 **Answer:** On April 3, 2009, Commission Staff responded to the petition for mitigation. Staff stated that Commission records indicate that the annual safety report packet was mailed to the Company on November 20, 2008. The packet included a letter stating that the annual report form must be completed and returned to the Commission together with 2009 regulatory fees by December 31, 2008, to avoid enforcement action.

4 Staff also stated that Commission records indicate that a second letter was mailed to Alpha Omega Tours on January 23, 2009, stating that the Commission had not received the annual safety report and extending until January 31, 2009, the deadline

for filing the report to avoid enforcement action. The Commission received the annual safety report on February 12, 2009. Staff argues that Alpha Omega Tours was given sufficient time and opportunity to file the annual safety report, including a 30-day extension of time. Therefore, Staff opposes the request for mitigation arguing that the weather and equipment issues that the company raises should not excuse Alpha Omega Tours from timely filing its report.

5 **Commission Decision:** The Commission denies the request for mitigation. While Alpha Omega Tours raises inclement weather and equipment issues in December 2008, as a reason for not filing its annual safety report in a timely manner, the Company fails to explain why it did not respond to the other two notices sent by the Commission. Alpha Omega Tours was provided the annual safety report packet in November 2008, with notice that the report was due December 31, 2008. This notice was issued by the Commission **prior** to the record snowfall the Company cites as a reason for failing to timely file its annual report. Alpha Omega Tours was provided a second opportunity in January 2009, to file its annual safety report and was given a 30-day extension of time to do so. The second notice issued by the Commission was **after** the record snowfall cited by Alpha Omega Tours. The two notices provided both before and after the inclement weather cited by the Company together with a 30-day extension of time to file the annual safety report demonstrate that Alpha Omega Tours was given a reasonable opportunity to timely file its annual safety report and avoid enforcement action. Accordingly, the request for mitigation should be denied and the \$100 penalty is due and payable within 30 days of the date of this Order.

6 It is so ordered.

DATED at Olympia, Washington, and effective April 7, 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. 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).