

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

In the Matter of the Penalty	)	DOCKET TR-090942
Assessment Against	)	
	)	ORDER 01
THE NORTHWEST RAILWAY	)	
MUSEUM in the Amount of \$100	)	ORDER GRANTING MITIGATION
	)	
.....	)	

1 **Penalty Assessment:** On June 26, 2009, the Washington Utilities and Transportation Commission (Commission)<sup>1</sup> assessed a penalty of \$100 against the Northwest Railway Museum (Northwest Railway) for a violation of WAC 480-62-300, which requires rail companies to file annual reports with the Commission by May 1 each year.

2 **Application for Mitigation:** On July 13, 2009, Northwest Railway filed an Application for Mitigation and waived a hearing. Northwest Railway admitted that the violation occurred and requested an administrative decision. Northwest Railway stated that it had experienced a record flood in January 2009 that forced the company to hastily gather up all paper records located within 18 inches of the building floor, place them in boxes, and stack the boxes on tables. This has resulted in a mix-up of files that have not been fully sorted. Northwest Railway claims that the reminder notice that was sent to the company in March 2009 cannot be found.

3 **Response to Application for Mitigation:** On July 16, 2009, Commission Staff (Staff) filed its response to the Application for Mitigation. Staff stated that it did not believe that Northwest Railway’s failure to file its 2008 annual report was intentional and believed the circumstances warranted full mitigation of the penalty assessed against it. Staff stated that a regulatory fee was not due as the company is designated a 501(c)(3) non-profit corporation. Staff also stated that the company filed its 2008

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<sup>1</sup> In formal proceedings, such as this, the Commission’s regulatory staff functions as an independent party with the same rights, privileges, and responsibilities as other parties to the proceeding. There is an “*ex parte* wall” separating the Commissioners, the presiding Administrative Law Judge, and the Commissioners’ policy and accounting advisors from all parties, including regulatory staff. *RCW 34.05.455*.

annual report with its Application for Mitigation and is now in compliance with the rules.

4 **Commission Decision:** The Commission concurs with Staff that the circumstances require mitigation of the penalty. The historic floods of January 2009 disrupted Northwest Railway's and other businesses' operations. The Commission recognizes that Northwest Railway has since filed its 2008 annual report and did not owe a regulatory fee. Since Northwest Railway has never before received a penalty assessment for violating this rule and because it is now in compliance with the rule, the Commission grants the joint request by Northwest Railway and Staff to dismiss the penalty assessment in the amount of \$100.

5 It is so ordered.

6 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 July 17, 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).