

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

In the Matter of the Penalty)	DOCKET TE-100276
Assessment Against)	
)	ORDER 01
RYAN’S EXPRESS MOTORCOACH)	
D/B/A RYAN’S EXPRESS)	
MOTORCOACH A CALIFORNIA)	ORDER DENYING MITIGATION;
CORPORATION)	REQUIRING PAYMENT OF
)	PENALTY
in the Amount of \$100)	
)	
.....)	

1 **Penalty Assessment:** On February 19, 2010, the Washington Utilities and Transportation Commission (Commission) assessed a penalty of \$100 against Ryan’s Express Motorcoach d/b/a Ryan’s Express Motorcoach a California Corporation (Ryan’s Express or Company) for a violation of WAC 480-30-071, which requires charter and excursion carriers to file annual safety reports with the Commission and pay regulatory fees by December 31 each year. The Commission advised Ryan’s Express 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 March 1, 2010, Ryan’s Express filed an Application for Mitigation, waiving a hearing and requesting an administrative decision. Daniel Azar submitted a letter on behalf of Ryan’s Express asserting that the Company never received the original packet for the annual safety report. Mr. Azar asserts that the address is correct, but the Company could have overlooked or discarded the documents as the Company went out of business at the end of the year. The Company would like to keep its authority active as it may seek to do business in the future.

3 Mr. Azar requests that the Commission waive or remove the penalty. He asserts that
the Company contacted Tina Leipski at the Commission in January to determine what
it needed to do to keep its authority active. Mr. Azar claims Ms. Leipski stated that
the Company did not need to do anything further.

4 Ryan's Express filed its 2009 Annual Safety Report with the Commission on
February 24, 2010.

5 **Response to Application for Mitigation:** On March 12, 2010, Commission Staff
(Staff)¹ filed its response to the Application for Mitigation through the Declarations
of Sheri Hoyt and Tina Leipski, opposing mitigation.

6 Ms. Hoyt asserts that the original annual safety report packet and follow up letters
were mailed to the address of record for Ryan's Express. Ryan's Express did not
respond to any of the mailings from the Commission. After the Commission issued
the Penalty Assessment, Ms. Hoyt states that Mr. Azar telephoned her to say that the
Company was no longer operating in Washington State. Ms. Hoyt states that she
verified that the address of record for the Company was correct. Consistent with the
information in the Application for Mitigation, Ms. Hoyt states that Mr. Azar claimed
that the Company must have discarded the paperwork thinking it was no longer
necessary.

7 Ms. Hoyt also states that Mr. Azar reported his conversation with Ms. Leipski, in
particular that she mentioned that the Company should maintain its insurance on file
to keep its authority active, but did not mention the annual report. Ms. Hoyt states
that Mr. Azar acknowledged that Ms. Leipski may have assumed the Company had
already filed the report.

¹ 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.*

- 8 Ms. Leipski asserts in her Declaration that Mr. Azar called her on January 20, 2010. During the conversation, Mr. Azar informed her that the Company no longer had a contract but wanted to maintain an active certificate. She states she advised him to maintain current insurance on file. She states that she did not mention the annual report, as the reports were due in December and she assumed the Company had already filed a timely report. Ms. Leipski does not handle annual safety reports.
- 9 Ms. Hoyt understands the violation was not deliberate, but opposes mitigation, asserting that the Company did not provide in its Application for Mitigation any information that would exempt a company from timely filing reports. She notes that the Company likely ignored or discarded the annual report package.
- 10 **Commission Decision:** The facts are clear that the Commission mailed the annual safety report packet to Ryan's Express at its address of record, and that the Company likely overlooked or discarded the documents as no longer necessary. Although Ryan's Express contacted Ms. Leipski to determine what it needed to do to keep its certificate active, this is a different question than whether the Company is in compliance with all statutes and rules. Under the Commission's rules, a company must make an independent effort to obtain annual report forms if it does not receive them from the Commission. The Commission mails forms to regulated companies only as a courtesy and a reminder. Ryan's Express assumed incorrectly that it did not need to file the report with the Commission, and failed to timely file the report and pay the fee until after receiving the Penalty Assessment.
- 11 The Commission concurs with Staff that the circumstances described in the Company's Application for Mitigation do not provide a justification for failing to timely file the required annual safety report and pay its regulatory fee. The Company is responsible for complying with statutes and rules governing charter and excursion carriers. The \$100 penalty assessed by the Commission is due and payable within 15 days of the date of this Order.
- 12 It is so ordered.

- 13 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).