

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Penalty)	DOCKET TE-141056
Assessment Against)	
)	ORDER 01
CARING HANDS)	
TRANSPORTATION, LLC)	INITIAL ORDER GRANTING
)	MITIGATION
)	
In the Amount of \$1,000)	
.....		

1 **Background.** Washington law requires charter and excursion carriers to file annual reports by May 1 of each year. WAC 480-30-071. On November 23, 2013, the Washington Utilities and Transportation Commission (Commission) mailed a letter to all charter and excursion carriers explaining that it recently adopted a rule changing the annual report due date for those carriers from December 31 to May 1. Regulatory fees remain due on December 31. On February 28, 2014, the Commission mailed annual report forms to all charter and excursion carriers. The forms included a reminder that companies must file their annual reports by May 1, 2014, 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.

1 **Procedural History.** Caring Hands Transportation LLC (Caring Hands or Company) did not file its annual report on May 1, 2014, and had not made that filing by May 15. On May 27, the Commission issued a penalty assessment against Caring Hands in the amount of \$1,000, calculated as \$100 per business day from May 1 to May 15.

2 On June 10, 2014, Caring Hands filed with the Commission a request for hearing. The Company explained that it inadvertently overlooked the filing deadline, and was working with a tax preparer to complete the financial portion of its annual safety report. The Company further stated that the \$1,000 penalty would be financially devastating because it has very little income.

2 **Hearing.** Pursuant to RCW 34.05.482 and WAC 480-07-610, the Commission determined that a brief adjudicative proceeding was appropriate for determining whether the penalty should be mitigated and what actions might be necessary to ensure that Caring Hands complies with its regulatory obligations. On July 28, 2014, the Commission issued a Notice of Brief Adjudicative Proceeding and set August 26, 2014, at 9:30 a.m. as the time for the parties to make oral statements concerning their positions.

3 **Evidence.** At hearing, the Company's owner, Michael Manderville, testified that he was surprised by the deadline change for filing his annual safety report, and was overwhelmed by the new level of detail the report appeared to require. Mr. Manderville stated that because he is a sole proprietor who has no employees, the \$1,000 penalty would be huge for a small business like his.

4 Mr. Manderville further testified that he intends to keep track of the required information on a daily basis going forward, and provided assurances of future compliance.

5 On September 3, 2014, Caring Hands filed its annual report. The Company timely paid its regulatory fees in December 2013.

6 Because this is Caring Hands' first violation of WAC 480-30-71, Commission Staff (Staff) testified in support of mitigating the penalty to \$200. Staff noted at hearing that the Commission recently adopted rules that changed the annual report due date for all charter and excursion companies from December 31 to May 1.

7 **Decision.** The Commission finds mitigation to be appropriate in this case. Mr. Manderville took responsibility for the Company's late filing, and testified credibly and sincerely about his intentions to comply with Commission rules and meet all future deadlines. Mr. Manderville also expressed genuine confusion about the recent change in filing requirements, and stated that the penalty would create a serious financial hardship.

8 The Commission may consider a number of factors when entertaining a request for mitigation, including a company's history of compliance, whether the violation was promptly corrected, a company's annual intrastate operating revenue, and the

likelihood the violation will recur.¹ This is Caring Hands' first violation of WAC 480-30-71, and the Company has since filed its annual report after receiving clarification and assistance from Staff. In addition, the Company stated that the penalty would create a financial hardship. The Commission's goal is to obtain compliance, not create an insurmountable financial burden for a small company. Finally, the Company has been regulated since 2010; given its history of compliance prior to the recent rule change, the violation is unlikely to recur.

- 9 The penalty assessed against Caring Hands is therefore recalculated at a rate of \$20 per day for the 10 business days the company was late in filing its annual report. This results in a revised penalty in the amount of \$200.

ORDER

THE COMMISSION ORDERS:

- 10 (1) The \$1,000 penalty assessed against Caring Hands Transportation, LLC is mitigated to \$200.
- 11 (2) The penalty is due and payable no later than September 17, 2014.

DATED at Olympia, Washington, and effective September 3, 2014.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

RAYNE PEARSON
Administrative Law Judge

¹ Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission (January 7, 2013).

NOTICE TO PARTIES

This is an Initial Order. The action proposed in this Initial Order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order, and you would like the Order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within ten (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order any party may file a Petition to Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

RCW 80.01.060(3) provides that an Initial Order will become final without further Commission action if no party seeks administrative review of the Initial Order and if the Commission fails to exercise administrative review on its own motion.

One copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). An Original and **one** copy of any Petition or Answer must be filed by mail delivery to:

Attn: Steven V. King, Executive Director and Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, Washington 98504-7250