

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Penalty	)	DOCKET TE-141075
Assessment Against	)	
	)	ORDER 01
ROBERSON, TERRY LEE D/B/A	)	
ALL ADVENTURE CHARTER	)	INITIAL ORDER GRANTING
SERVICES	)	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.

2 **Procedural History.** Terry Lee Roberson d/b/a All Adventure Charter Services (All Adventure or Company) did not file its annual report on May 1, 2014, and had not made a complete filing by May 15. On May 27, the Commission issued a penalty assessment against All Adventure in the amount of \$1,000, calculated as \$100 per business day from May 1 to May 15.

3 On June 4, 2014, All Adventure filed with the Commission a request for hearing stating that Mr. Roberson contacted Commission Staff (Staff) on May 5 regarding annual reporting requirements. That same day, Mr. Roberson sent his completed annual report to an incorrect Commission email address, which he obtained in error during his conversation with Staff. Mr. Roberson did not receive a message indicating that the email address was invalid, and believed he was in compliance until

he received the penalty assessment. All Adventure filed its complete report on May 29.

4 **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 All Adventure 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.

5 **Evidence.** At hearing, Mr. Roberson explained that he was confused by additional documents included in the annual report packet this year, and contacted Staff seeking clarification. Mr. Roberson testified that he sent his report to an invalid email address, but did not receive an error message in return. Mr. Roberson believed the report was filed until he received the penalty assessment on May 29. That same day, he filed his annual report.

6 Although this is Mr. Roberson's second violation of WAC 480-30-71, Staff testified in support of mitigating the penalty to \$200. Staff explained 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. Staff also noted that Mr. Roberson's confusion over the email address was understandable because it was provided verbally over the phone.

7 **Decision.** The Commission finds mitigation to be appropriate in this case. Mr. Roberson took responsibility for his company's late filing and sought to make amends by appearing in person at the Commission's headquarters. He testified credibly and sincerely about his belief that he filed his annual report on May 5, and provided documentation showing that his email submission was routed to an invalid address. Mr. Roberson also expressed his intentions to comply with Commission rules and meet all future deadlines.

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, and the likelihood the violation will recur.<sup>1</sup> Although this is Mr. Roberson's second violation of WAC 480-30-71, he provided documentation to support his testimony that he believed his report was filed only two business days past the deadline, on May 5. In addition, Mr. Roberson promptly cured the violations by filing his annual report the same day he received the penalty assessment. Finally, similarly situated companies with repeat violations have been granted leniency due to the change in filing procedures for charter and excursion carriers in 2014.

- 9 Because Mr. Roberson made a good faith effort to file his annual report on May 5, 2014, the penalty assessed against All Adventure is recalculated at a rate of \$100 per day for the two business days the company was delinquent. This results in a revised penalty in the amount of \$200.

**ORDER**

**THE COMMISSION ORDERS:**

- 10 (1) The \$1,000 penalty assessed against Terry Lee Roberson d/b/a All Adventure Charter Services is mitigated to \$200.
- 11 (2) The penalty is due and payable no later than September 16, 2014.

DATED at Olympia, Washington, and effective September 2, 2014.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

RAYNE PEARSON  
Administrative Law Judge

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<sup>1</sup> 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