



STATE OF WASHINGTON

UTILITIES AND TRANSPORTATION COMMISSION

1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250

(360) 664-1160 • TTY (360) 586-8203

April 12, 2019

Mark L. Johnson
Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Dr. SW
P.O. Box 47250
Olympia, WA 98504-7250

RE: *Washington Utilities and Transportation Commission v. Renzenberger, Inc., d/b/a Hallcon*
Commission Staff's Response to Request for Documents
Docket TH-190073

Dear Mr. Johnson:

On March 13, 2019, the Washington Utilities and Transportation Commission (commission) issued a penalty assessment against Renzenberger, Inc., d/b/a Hallcon (Hallcon or company) in the amount of \$200 for violations of Washington Administrative Code 480-62-278, Contract Crew Transportation Vehicle and Driver Safety Requirements, which adopts Title 49 Code of Federal Regulations (CFR) Part 395 – Hours of Service of Drivers, as follows:

- **Thirty violations of Title 49 CFR Part 395.8(a) – Failing to require driver to make a record of duty status.** Hallcon allowed its driver Lue Gene Florence to drive without making a record of duty status on 30 occasions between July 18, 2018, and August 16, 2018.¹
- **Seventeen violations of Title 49 CFR Part 395.5(b)(2) – Requiring or permitting a passenger-carrying motor vehicle driver to drive after having been on-duty more than 70 hours in eight consecutive days.** Hallcon allowed its driver Lue Gene Florence to drive in violation of the 70-hour rule on 17 occasions between July 25, 2018, and August 16, 2018.²

¹ The driver, Mr. Florence, failed to record hours on-duty working for another employer.

² Mr. Florence exceeded the 70-hour rule by working for another employer.

On March 26, 2019, Hallcon filed a response contesting the violations outlined in the penalty assessment. In its response, the company provided a table documenting Mr. Florence's hours of service between July 18, 2018, and August 16, 2018. The hours recorded in the table suggested that Mr. Florence's total hours worked for Hallcon did not exceed the 70-hour rule, in CFR Part 395.5(b)(2); however, the company failed to provide any evidence pertaining to the driver's hours worked for another employer.

On April 3, 2019, commission staff (staff) filed its response recommending that the commission uphold the violations and penalties against Hallcon. In the response, staff stated that the company failed to document Mr. Florence's hours worked for another employer in its contest.

On April 9, 2019, the commission issued a notice of document request, asking staff to provide documentation showing that Mr. Florence was also driving for another motor carrier, other than Hallcon, between July 18, 2018, and August 16, 2018, and the hours that Mr. Florence drove for all motor carriers during that period. Staff's response to the commission's request is below.

The violations of Title 49 CFR Part 395.5(b)(2) do not require Mr. Florence to drive for another motor carrier, but rather that Mr. Florence was on-duty working for another employer. Title 49 CFR Part 395.2 defines "on-duty time," which includes "[p]erforming any other work in the capacity, employ, or service of, a motor carrier; and [p]erforming any compensated work for a person who is not a motor carrier."

To calculate on-duty time, staff utilized an email from Lon Ingram, Corporate Safety Manager for Hallcon.³ Mr. Ingram's email included Mr. Florence's timecards for Hallcon, and the result of Hallcon's investigation into Mr. Florence, in which the company admitted the hours of service violations. The email acknowledged that:

"The driver in question divulged that he works another job Monday through Friday from 1530 until 2200 Monday, Tuesday, Thursday, and Friday. On Wednesday he works a small 3 hour shift. For Hallcon he works a scheduled 8 hrs from 2300 until 0700 Sunday through Friday, having off Friday at 0700 until Sunday at 2300 For Hallcon. Working these hours makes violations Monday, Tuesday, and Thursday."

On Oct. 8, 2018, staff completed its focused safety investigation of Hallcon, which included a memorandum formalizing staff's findings for the passenger complaint,⁴ as well as a spreadsheet identifying the 70-hour rule violations of Title 49 CFR Part 395.5(b)(2).⁵

³ See Attachment A for a copy of Hallcon's email, dated Sept. 8, 2018.

⁴ See Attachment B for a copy of staff's memorandum, dated Oct. 2, 2018.

⁵ See Attachment C for a copy of the spreadsheet identifying violations of Title 49 CFR Part 395.5(b)(2).

Mark L. Johnson
April 12, 2019
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If you have any questions, please contact Jason Hoxit, Compliance Investigator, Consumer Protection, at (360) 664-1320, or by email at jason.hoxit@utc.wa.gov.

Sincerely,

A handwritten signature in blue ink that reads "Bridgit Feeser". The signature is written in a cursive style with a large initial "B".

Bridgit Feeser
Assistant Director, Consumer Protection

Attachment A

From: [Lon Ingram Jr.](#)
To: [Auderer, Robert \(UTC\)](#)
Cc: [Drew Jones](#); [Shane Flack](#); [Josef Smith](#)
Subject: HOS in Washington Lue gene Florence
Date: Saturday, September 8, 2018 8:02:15 AM
Attachments: [Florence 8-04-18.pdf](#)
[Florence 8-18-18.pdf](#)
[Florence 7-21-18.pdf](#)

Good Morning

After doing some research we have come up with multiple issues. The driver in question divulged that he works another job Monday through Friday from 1530 until 2200 Monday, Tuesday, Thursday, and Friday. On Wednesday he works a small 3 hour shift. For Hallcon he works a scheduled 8 hrs from 2300 until 0700 Sunday through Friday, having off Friday at 0700 until Sunday at 2300 For Hallcon. Working these hours makes violations Monday, Tuesday, and Thursday. Hallcon takes hours of service extremely serious and will be scheduling this employee differently to avoid this going forward. Also going forward we will be asking each current Employee in the state of Washington to disclose any other employment outside of Hallcon. New hires will be asked to fill out a form with all other paperwork disclosing other employment. Both of these items will be in place immediately. Let us know if any other information will be needed for this inquiry.

Thank you,

Lon Ingram, SMS
Corporate Safety Manager
Hallcon Corporation
M: 720-435-1361
Lingram@hallcon.com

Attachment A (continued)

Employee # 90083782
Employee Name FLORENCE, LUE GENE

Renzenberger, Inc.
P.O. Box 14610
14325 W 95th
Lenexa, KS 66215
800-878-0450x709

Dept. Name K51 TACOMA, WA
Hired 11/16/2017 Job YARD
Pay Period Dates 07/08/2018 through 07/21/2018
Pay Group TUESDAY
Paysheet / PayRun#034881 053094

Yard Rate \$ / Hour 13.0000
Road Rate \$ / Hour 15.0000

REPRINT

Date Worked	End Time	Job	Dispatch # Log #	Start Location	Drop Location	Miles Paid	Miles Paid \$	Wait Time	Wait Paid \$	Hours Worked	Hours Paid	Min Adj.	\$ Total	Gar Adj.	Comments
07/08/2018 through 07/14/2018															
07/08/2018	23:14	07/09/2018 06:51	Yard	C002023732	TACOMA, WA	K51	Rate:13.00			7.62	7.62		\$ 99.06		
07/09/2018	23:04	07/10/2018 06:50	Yard	C002024471	TACOMA, WA	K51	Rate:13.00			7.77	7.77		\$ 101.01		
07/10/2018	23:04	07/11/2018 07:14	Yard	C002025168	TACOMA, WA	K51	Rate:13.00			8.17	8.17		\$ 106.21		
07/11/2018	22:58	07/12/2018 06:52	Yard	C002025763	TACOMA, WA	K51	Rate:13.00			7.90	7.90		\$ 102.70		
07/12/2018	22:57	07/13/2018 06:55	Yard	C002026461	TACOMA, WA	K51	Rate:13.00			7.97	7.97		\$ 103.61		
Effective Rate \$ / Hour 13.00										Pay Week Hours					
										39.43	39.43	0.00	\$ 512.59	0.00	
										Hours	Rate	\$ Total			
Total Weekly Yard Trips										39.43	13.00	512.59			
Total Due for Week												\$ 512.59			
<hr/>															
07/15/2018 through 07/21/2018															
07/15/2018	23:00	07/16/2018 06:51	Yard	C002028484	TACOMA, WA	K51	Rate:13.00			7.85	7.85		\$ 102.05		
07/16/2018	23:00	07/17/2018 06:56	Yard	C002029160	TACOMA, WA	K51	Rate:13.00			7.93	7.93		\$ 103.09		
07/17/2018	22:58	07/18/2018 06:50	Yard	C002029859	TACOMA, WA	K51	Rate:13.00			7.87	7.87		\$ 102.31		
07/19/2018	22:56	07/20/2018 06:51	Yard	C002031284	TACOMA, WA	K51	Rate:13.00			7.92	7.92		\$ 102.96		
Effective Rate \$ / Hour 13.00										Pay Week Hours					
										31.57	31.57	0.00	\$ 410.41	0.00	
										Hours	Rate	\$ Total			
Total Weekly Yard Trips										31.57	13.00	410.41			
Total Due for Week												\$ 410.41			

Pay Period Total	\$ Total
Total Weekly Yard Trips	923.00
Total Due	\$ 923.00

Attachment A (continued)

Employee # 90083782
Employee Name FLORENCE, LUE GENE

Renzenberger, Inc.
P.O. Box 14610
14325 W 95th
Lenexa, KS 66215
800-878-0450x709

Dept. Name K51 TACOMA, WA
Hired 11/16/2017 Job YARD
Pay Period Dates 07/22/2018 through 08/04/2018
Pay Group TUESDA
Paysheet / PayRun#040806 053180

Yard Rate \$ / Hour 13.0000
Road Rate \$ / Hour 15.0000

REPRINT

Date Worked	End Time	Job	Dispatch # Log #	Start Location	Drop Location	Miles Paid	Miles Paid \$	Wait Time	Wait Paid \$	Hours Worked	Hours Paid	Min Adj.	\$ Total	Ger Adj.	Comments		
07/22/2018 through 07/28/2018																	
07/22/2018	22:59	07/23/2018 06:50	Yard	C002033344	TACOMA, WA	K51	Rate:13.00			7.85	7.85		\$ 102.05				
07/23/2018	22:58	07/24/2018 06:53	Yard	C002034010	TACOMA, WA	K51	Rate:13.00			7.92	7.92		\$ 102.96				
07/24/2018	22:59	07/25/2018 06:50	Yard	C002034719	TACOMA, WA	K51	Rate:13.00			7.85	7.85		\$ 102.05				
07/25/2018	23:00	07/26/2018 07:02	Yard	C002035405	TACOMA, WA	K51	Rate:13.00			8.03	8.03		\$ 104.39				
07/26/2018	23:00	07/27/2018 06:51	Yard	C002036125	TACOMA, WA	K51	Rate:13.00			7.85	7.85		\$ 102.05				
Effective Rate \$ / Hour 13.00										Pay Week Hours		39.50	39.50	0.00	\$ 513.50	0.00	
										Hours		39.50	Rate		13.00	\$ Total	
												39.50			513.50		
Total Weekly Yard Trips															\$ 513.50		
Total Due for Week															\$ 513.50		
<hr/>																	
07/29/2018 through 08/04/2018																	
07/29/2018	23:04	07/30/2018 07:06	Yard	C002038166	TACOMA, WA	K51	Rate:13.00			8.03	8.03		\$ 104.39				
07/30/2018	22:56	07/31/2018 06:50	Yard	C002038609	TACOMA, WA	K51	Rate:13.00			7.90	7.90		\$ 102.70				
07/31/2018	22:56	08/01/2018 06:51	Yard	C002039503	TACOMA, WA	K51	Rate:13.00			7.92	7.92		\$ 102.96				
08/01/2018	22:58	08/02/2018 06:56	Yard	C002040151	TACOMA, WA	K51	Rate:13.00			7.97	7.97		\$ 103.81				
08/02/2018	23:08	08/03/2018 06:50	Yard	C002040885	TACOMA, WA	K51	Rate:13.00			7.70	7.70		\$ 100.10				
Effective Rate \$ / Hour 13.00										Pay Week Hours		39.52	39.52	0.00	\$ 513.76	0.00	
										Hours		39.52	Rate		13.00	\$ Total	
												39.52			513.76		
Total Weekly Yard Trips															\$ 513.76		
Total Due for Week															\$ 513.76		

Pay Period Total	\$ Total
Total Weekly Yard Trips	1,027.26
Total Due	\$ 1,027.26

Attachment A (continued)

Employee # 90083782
Employee Name FLORENCE, LUE GENE

Renzenberger, Inc.
P.O. Box 14610
14325 W 95th
Lenexa, KS 66215
800-878-0450x709

Dept. Name K51 TACOMA, WA
Hired 11/18/2017 Job YARD
Pay Period Dates 08/05/2018 through 08/18/2018
Pay Group TUESDA
Paysheet / PayRun#046900 053307

Yard Rate \$ / Hour 13.0000
Road Rate \$ / Hour 15.0000

REPRINT

Date Worked	End Time	Job	Dispatch # Log #	Start Location	Drop Location	Miles Paid	Miles Paid \$	Wait Time	Wait Paid \$	Hours Worked	Hours Paid	Min Adj.	\$ Total	Gar Adj.	Comments		
08/05/2018 through 08/11/2018																	
08/05/2018	23:06	08/06/2018 06:51	Yard	C002043061	TACOMA, WA	K51	Rate:13.00			7.75	7.75		\$ 100.75				
08/06/2018	23:00	08/07/2018 06:50	Yard	C002043587	TACOMA, WA	K51	Rate:13.00			7.83	7.83		\$ 101.79				
08/07/2018	23:00	08/08/2018 06:51	Yard	C002044263	TACOMA, WA	K51	Rate:13.00			7.85	7.85		\$ 102.05				
08/08/2018	23:00	08/09/2018 06:52	Yard	C002044976	TACOMA, WA	K51	Rate:13.00			7.87	7.87		\$ 102.31				
08/09/2018	23:01	08/10/2018 06:52	Yard	C002045685	TACOMA, WA	K51	Rate:13.00			7.85	7.85		\$ 102.05				
Effective Rate \$ / Hour 13.00										Pay Week Hours			39.15	39.15	0.00	\$ 508.95	0.00
Total Weekly Yard Trips										Hours	Rate	\$ Total		39.15	13.00	508.95	
Total Due for Week													\$ 508.95				
08/12/2018 through 08/18/2018																	
08/12/2018	23:14	08/13/2018 06:50	Yard	C002047712	TACOMA, WA	K51	Rate:13.00			7.60	7.60		\$ 98.80				
08/13/2018	23:02	08/14/2018 06:50	Yard	C002048423	TACOMA, WA	K51	Rate:13.00			7.80	7.80		\$ 101.40				
08/14/2018	22:56	08/15/2018 06:52	Yard	C002049072	TACOMA, WA	K51	Rate:13.00			7.93	7.93		\$ 103.09				
08/15/2018	22:59	08/16/2018 06:50	Yard	C002049718	TACOMA, WA	K51	Rate:13.00			7.85	7.85		\$ 102.05				
08/16/2018	22:58	08/17/2018 06:54	Yard	C002050614	TACOMA, WA	K51	Rate:13.00			7.93	7.93		\$ 103.09				
Effective Rate \$ / Hour 13.00										Pay Week Hours			39.11	39.11	0.00	\$ 508.43	0.00
Total Weekly Yard Trips										Hours	Rate	\$ Total		39.11	13.00	508.43	
Total Due for Week													\$ 508.43				

Pay Period Total	\$ Total
Total Weekly Yard Trips	1,017.38
Total Due	\$ 1,017.38

Attachment B



TO Mathew Perkinson, Motor Carrier Safety Manager
FROM Jason Sharp, Motor Carrier Supervisor
Robert Auderer, MCS Special Investigator
DATE October 2, 2018
SUBJECT Assignment 118140 - Renzenberger Passenger Complaint

Company: Renzenberger, Inc.
USDOT: 210768
Service: Contract Crew Carrier
Date/Time of Complaint: August 30, 2018
Company Contact: Lon Ingram, Corporate Safety Manager, (720) 435-1361

Relevant Carrier History

Renzenberger received charter and excursion authority in November of 2014. In July of 2018 Renzenberger was provided technical assistance pertaining to the new regulations governing the transportation of railroad crews in Washington State. Part of the technical assistance provided included driver hours of service regulations detailed in WAC 480-62-278.

Description of Complaint

On August 30, 2018, a complaint was submitted by Michael Svedberg, an employee of Burlington Northern Santa Fe (BNSF). Mr. Svedberg voiced concern about one of Renzenberger's drivers (Lue Gene Florence) and how he always appears fatigued. Mr. Svedberg stated he is often found in a "daze" and misses calls and misinterprets instruction in the yard. He states that Mr. Florence has been found sleeping on duty. He believes Mr. Florence works an additional job to the work he does with Renzenberger.

Mr. Svedberg complained that Lue Gene Florence listened to the vehicle AM-FM radio while driving in the rail yard. Mr. Svedberg was concerned that the AM-FM radio being on, in combination with the BNSF yard radio, and the dispatch radio of the driver created an "added layer of distraction."

Mr. Svedberg accused another driver of using a hand held electronic device while driving. The driver's name was not provided, nor any other evidence. Mr. Ingram was notified of the allegation and stated that if the violation were proven, then it is a terminable offense of company safety rules.

Attachment B (continued)

Driver Information

- Driver Name: Lue Gene Florence
- License number: FLORELG397K4, verified valid
- Medical Certificate: Verified October 8, 2018
- Hours of service records for 30 days preceding complaint

Findings

It was determined that the use of the AM/FM radio while driving in the rail yard was not a violation of State law and the company verified it is not in violation with its safety procedures.

Mr. Ingram stated that the company was made aware that Mr. Florence had additional employment outside of Renzenberger and was brought to light as a result of this complaint inquiry. After verifying Mr. Florence's driver qualifications and confirming his additional employment outside of Renzenberger, a 30 day sample of timecards was requested and provided. The 30 day sample reviewed was from July 18, 2018, through August 16, 2018. It was determined that Renzenberger did not account for Mr. Florence's time records from his employment outside of the company. This disqualified Mr. Florence's eligibility under the short haul provision detailed in 395.1(e) as the timesheets driver were not accurate. Renzenberger failed to require Mr. Florence to produce a Record of Duty Status (RODS). Mr. Florence also was required to use an Electronic Logging Device as part of this requirement.

Thirty critical violations of 395.8(a) occurred when the carrier failed to require the driver to prepare a record of duty status.

After learning the work schedule that Mr. Florence maintained outside of Renzenberger and adding those hours to his recorded hours on his Renzenberger time sheet, it was discovered that Mr. Florence drove in violation of the 70 hour rule on 17 occurrences as follows:

Lue Gene Florence (17 occurrences): July 25, 26, 27, 30, 31; August 1, 2, 3, 6, 7, 8, 9, 10, 13, 14, 15 and 16.

Seventeen critical violations of 395.5(b)(2) for requiring or permitting a passenger-carrying motor vehicle driver to drive after having been on duty more than 70 hours in eight consecutive days.

Recommendation

Close with the carrier, contact the complainant and issue administrative penalties.

Attachment C

Month/Year:		Driver's Name:														
Date	Total hours and mins	Redacted	30 Minute Violation	11 hour	14 hour	Driving after 50	Driving after 70	60 hour	70 hour	Form and Manner	DVIR	Comments	Falselog Date	Critical	Nominal	Supporting Document Used
1	9:50							9:50	9:50				1			7/6/2018
2	7:24							17:24	17:24				2			7/19/2018
3	13:21							30:45	30:45				3			7/20/2018
4	0:00							30:45	30:45				4			7/21/2018
5	1:01							31:46	31:46				5			7/22/2018
6	14:22							46:08	46:08				6			7/23/2018
7	14:24							60:32	60:32				7			7/24/2018
8	10:50							61:32	71:22				8			7/25/2018
9	14:32							68:30	76:04				9			7/26/2018
10	13:21							68:30	81:51				10			7/27/2018
11	0:00							68:30	68:30				11			7/28/2018
12	0:56							68:29	69:26				12			7/29/2018
13	14:40							68:43	83:05				13			7/30/2018
14	14:24							68:43	83:07				14			7/31/2018
15	10:53							68:46	79:56				15			8/1/2018
16	14:24							68:48	83:20				16			8/2/2018
17	13:20							68:47	82:08				17			8/3/2018
18	0:00							68:47	68:47				18			8/4/2018
19	0:54							68:45	69:41				19			8/5/2018
20	14:21							68:26	83:06				20			8/6/2018
21	14:20							68:22	92:46				21			8/7/2018
22	10:51							68:20	79:13				22			8/8/2018
23	14:21							68:07	82:41				23			8/9/2018
24	13:22							68:09	81:29				24			8/10/2018
25	0:00							68:08	68:08				25			8/11/2018
26	0:46							68:01	68:55				26			8/12/2018
27	14:18							67:58	92:19				27			8/13/2018
28	14:24							68:04	82:22				28			8/14/2018
29	10:53							68:04	78:55				29			8/15/2018
30	14:22							68:05	82:26				30			8/16/2018

I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Signed at (city) _____ (state) _____ on (date) _____

Signature of Officer _____ Print Name of Officer _____ Badge # _____