

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

In the Matter of the Penalty Assessment)	DOCKET TE-080340
Against RAFAEL V. DE LEON,)	
d/b/a BOYET TRANSPORTATION,)	ORDER 01
in the amount of \$100)	
.....)	ORDER DENYING MITIGATION
)	

- 1 **Penalty:** On March 6, 2008, the Washington Utilities and Transportation Commission (Commission) assessed a penalty in the amount of \$100 against Rafael V. De Leon d/b/a Boyet Transportation (Boyet) for violating WAC 480-30-071, which requires charter and excursion carriers to file annual reports with the Commission no later than December 31 of each year.

- 2 **Petition for Mitigation:** On March 19, 2008, Mr. De Leon filed a petition for mitigation on behalf of Boyet and waived a hearing. Mr. De Leon claimed that he had not received the appropriate forms from the Commission. Mr. De Leon conceded that when he did mail the annual report, he failed to put the Commission’s complete address on the envelope, resulting in the envelope being “returned to sender” and further delay.

- 3 **Answer:** On April 2, 2008, Commission Staff filed its opposition to the petition for mitigation. Staff contended that the Commission sent a letter to Boyet’s address of record¹ on November 19, 2007, explaining the annual report requirement, the filing deadline of December 31, 2007, and providing the required annual safety report forms. Staff further stated that the Commission sent another letter to Boyet on January 21, 2008, noting the company’s delinquency and providing an extension until January 31, 2008, for Boyet to file the report and avoid enforcement action. Staff acknowledged that Mr. De Leon telephoned the Commission on January 30, 2008, to request a copy of the report forms be faxed to his office. However, Staff pointed out that Mr. De Leon did not mail the completed form (albeit using the incomplete address) until several days later, on February 2, 2008. Finally, Staff noted that the Commission received Boyet’s completed annual report form on February 7, 2008.

4 **Commission Decision:** The Commission denies mitigation. Commission records indicate that two letters reminding Boyet of its obligation to file an annual report were sent to the company's address of record. There is no evidence to indicate any irregularity in the delivery of mail to that address. Further, it is undisputed that Boyet did receive the required forms prior to the extended deadline yet failed to ensure timely delivery to the Commission by Thursday, January 31, 2008. The original postmark on the company's insufficiently addressed envelope indicates that Boyet made its initial attempt to mail the documents on Saturday, February 2, 2008.

5 Boyet failed to comply with its obligations under Commission rules. The circumstances described in the company's petition for mitigation do not provide an excuse for failing to take timely action in response to the Commission's letters calling the annual report filing requirement to the company's attention. The \$100 penalty assessed by the Commission is due and payable within 15 days of the date of this Order.

6 It is so ordered.

7 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 April 25, 2008.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

CAROLE J. WASHBURN
Executive Secretary

¹ Boyet Transportation's address of record is 3707 South Perry Street, Seattle, WA 98118-5241.

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).