

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Penalty	)	DOCKET TE-141086
Assessment Against	)	
	)	ORDER 01
YELLOW ARROW LINES 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.

2 **Procedural History.** Yellow Arrow Lines LLC (Yellow Arrow or Company) did not file its annual report on May 1, 2014, and had not made that filing by May 15. On May 28, the Commission issued a penalty assessment against Yellow Arrow in the amount of \$1,000, calculated as \$100 per business day from May 1 to May 15.

3 On June 9, 2014, Yellow Arrow filed with the Commission a request for hearing. The Company explained that on April 11, 2014, it mailed a request for extension to the Commission and, receiving no response, assumed the request was granted. The Company further explained that it requested the extension because it was in the process of restructuring both its management and operations.

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 Yellow Arrow 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, the Company's representative and bookkeeper, Franco Camarillo, contested the violations. Mr. Camarillo testified that the Company sent a request for extension via first class mail on April 11, 2014. The Commission did not receive the Company's request, but the Company, hearing nothing in return, assumed the extension had been granted. Mr. Camarillo explained that the Company is in the process of merging and acquiring new partners and vehicles, and believes the Company's operations may no longer be jurisdictional to the Commission.

6 Because this is Yellow Arrow's first 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 the Company made a good faith effort to timely submit a request for extension of time to file its annual report.

7 **Decision.** The Commission finds mitigation to be appropriate in this case. Mr. Camarillo testified credibly that the Company attempted to secure an extension of time to file its annual report, and demonstrated that the Company's intention was to ensure compliance with Commission rules.

8 The Commission may consider a number of factors when entertaining a request for mitigation, including whether the violation was intentional, whether the violation was promptly corrected, and the likelihood the violation will recur.<sup>1</sup> Here, Yellow Arrow attempted to submit a request for an extension, and believed the request was received. In addition, the Company promptly filed its annual report after receiving notification of the delinquency. Finally, the Commission has consistently granted mitigation to companies in their first year of operation.

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

- 9 The penalty assessed against Yellow Arrow 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 Yellow Arrow Lines LLC 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

## 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