

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

In the Matter of the Penalty Assessment	)	DOCKET TE-100269
Against	)	
	)	ORDER 01
DRIVER FOR HIRE, INC.	)	
	)	ORDER DENYING MITIGATION;
in the Amount of \$100	)	REQUIRING PAYMENT OF
	)	PENALTY
.....	)	

1 **Penalty Assessment:** On February 19, 2010, and again on February 24, 2010,<sup>1</sup> the Washington Utilities and Transportation Commission (Commission) mailed a Penalty Assessment of \$100 against Driver for Hire, Inc. (Driver for Hire or Company) for a violation of WAC 480-30-071, which requires charter and excursion carriers to file annual safety reports with the Commission and pay regulatory fees by December 31 each year. The Commission advised Driver for Hire that it was required to act within 15 days of receiving the notice either to pay the amount due, request a hearing to contest the alleged violation, or request mitigation to contest the amount of the penalty. The Penalty Assessment was sent to Driver for Hire by certified mail on February 24, 2010, and the returned certified mail card indicates the Company received the assessment on February 26, 2010.<sup>2</sup>

2 **Application for Mitigation:** On March 8, 2010, Driver for Hire filed an Application for Mitigation, requesting a hearing. On March 15, 2010, the Company filed an amended application, waiving a hearing and requesting an administrative decision. Driver for Hire denies the violation, stating that it never received the annual safety report form. The Company also states that the owners were out of state from November 2009 through February 2010 and their mail was forwarded to a different

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<sup>1</sup> After the February 19, 2010, mailing was returned as undeliverable, the Commission remailed the penalty assessment on February 24, 2010.

<sup>2</sup> The Commission received the signed certified card on March 1, 2010, indicating the Company's receipt of the Penalty Assessment.

address. The Company claims that in 2008, Commission investigator Bruce Grimm “dealt with us and filed our safety report with him along with an investigation.”

3 **Response to Application for Mitigation:** On March 17, 2010, Commission Staff (Staff) filed its response to the Application for Mitigation through the Declaration of Sheri Hoyt, opposing mitigation.<sup>3</sup> Ms. Hoyt asserts that the Commission mailed the annual safety report form as well as follow-up letters to the address on record for the Company. She asserts that, under WAC 480-30-071(2)(a), the failure of the Company to receive the form does not excuse it from the obligation to file the report and pay the required fees. If a company does not receive the form it must contact the Commission to obtain a copy of the form.

4 Further, Ms. Hoyt asserts that charter and excursion companies must notify the Commission in writing of any change in physical business address, business mailing address, business telephone number, fax number or e-mail address. *See WAC 480-30-041.* She notes that the Company contacted Commission staff Tom McVaugh by telephone on February 18, 2010, to notify the Commission of a change of address and subsequently filed its annual safety report for 2009 on February 24, 2010. She states that the Company should not expect Commission staff to take responsibility for filing its annual report, and that if the Company remembers Mr. Grimm filing the report last year, the Company must remember it is required to file the report.

5 Ms. Hoyt argues that the violation occurred and opposes mitigation, asserting the Company did not provide any information in the mitigation request that would exempt them from filing a report. Staff understands that the violation was not deliberate, but asserts that the Company is obligated to meet its regulatory requirements even when the Company owners are out of state.

6 **Commission Decision:** The facts are clear that the Commission mailed the annual safety report form to Driver for Hire at its address of record. Driver for Hire failed to notify the Commission of a change in its address. Having done so would have

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<sup>3</sup> In formal proceedings, such as this, the Commission’s regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners’ policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See, RCW 34.05.455.*

resulted in the Company receiving the necessary forms in time to avoid the penalty. Under the Commission's rules, however, a company must make an independent effort to obtain the forms if it does not receive them from the Commission. Driver for Hire did not do so, and failed to file the form and pay the fee until after receiving the Penalty Assessment. The Commission mails forms to regulated companies only as a courtesy and a reminder. Although Commission Staff Bruce Grimm apparently filed the Company's safety report for the Company after conducting an investigation in 2008, this does not relieve the Company of its responsibility for filing the reports itself.

7 Driver for Hire is responsible for complying with statutes and Commission rules governing charter and excursion carriers. The circumstances described in the Company's Application for Mitigation do not provide a justification for failing to timely file the required annual safety report and pay its regulatory fee. The \$100 penalty assessed by the Commission is due and payable within 15 days of the date of this Order.

8 It is so ordered.

9 The Commissioners have delegated authority to the Secretary to enter this Order pursuant to RCW 80.01.030 and WAC 480-07-905(1)(h).

Dated at Olympia, Washington, and effective March 23, 2010.

**WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION**

**DAVID W. DANNER**  
Executive Director and Secretary

**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).