

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment) DOCKET TE-151041
Against)
) ORDER 02
PUGET EXPRESS, LLC)
) FINAL ORDER
in the amount of \$1,000)
.....)

BACKGROUND

- 1 Washington Administrative Code (WAC) 480-30-071 requires charter and excursion carriers to file annual reports and pay regulatory fees by May 1 of each year. Puget Express, LLC (Puget Express or Company) did not file its annual report on May 1, 2015, and had not made that filing by May 15. On June 10, the Washington Utilities and Transportation Commission (Commission) assessed a penalty of \$1,000 against Puget Express for ten violations of WAC 480-30-071, calculated as \$100 per business day from May 1 to May 15.
- 2 On June 18, 2015, Puget Express responded to the Commission’s penalty assessment contesting the violations and requesting a hearing. The Company provided the following explanation: “I do believe I have filed my annual report with UTC and paid the fee as well and if the record [doesn’t] show, it must have gotten lost in the mail. I really wish there was a fax number to file with the UTC.” Commission staff (Staff) opposed the Company’s request for mitigation because Puget Express received a penalty for the same violations in 2013 and failed to present any new or compelling information for the Commission to consider.
- 3 On June 30, 2015, the Commission issued Order 01 denying the Company’s request for hearing and the Company’s contest of violations because, as of the date of the order, the Company had not yet filed its annual report. The Commission also denied mitigation based on the Company’s history of noncompliance.
- 4 On July 2, 2015, Puget Express filed with the Commission a petition requesting a hearing and review of Order 01. In its request, the Company explained that it tried several times

to fax its annual report to the Commission, but believes the fax was not “channeled to the right desk.” On July 3, the Company filed its annual report.

- 5 On July 9, 2015, the Commission issued a Notice of Opportunity to Respond for Request for Review, which permitted Staff to file an answer to the Company’s petition for review. Staff did not file a response.

DISCUSSION

- 6 As a preliminary matter, we deny the Company’s request for hearing. In Order 01, the Commission denied the Company’s request for hearing because there are no issues of law or fact that require consideration of evidence and resolution in hearing. That remains true despite the Company’s new explanation for its delinquent filing. The undisputed facts demonstrate that the Commission received the Company’s annual report on July 3, 2015, well past the May 1 deadline.

- 7 We also uphold the findings in Order 01 related to mitigation of the penalty. In its initial request for mitigation, the Company stated it mailed its annual report, but would have preferred to submit it via fax. In its petition for administrative review, the Company claims it faxed its report to the Commission, but speculates that it was lost or misrouted. The Company, however, did not provide proof of certified mailing or a fax transmission report to corroborate either version of events. Absent the introduction of compelling circumstances or proof the Company attempted to timely submit its annual report, there is no evidentiary basis to reverse our earlier decision.

- 8 Neither do we believe that Order 01 is unjust. While the Commission routinely grants mitigation for first-time violations, we are less lenient with companies that have a history of non-compliance, repeated violations of the same regulation, and previous penalties.¹ This is the Company’s second violation of WAC 480-30-071 since it became regulated in 2011; in 2013, the Company received and paid a reduced penalty of \$100 for filing its annual report late. Moreover, the Company failed to submit a complete annual report until July 3, despite repeated notifications that the Commission did not receive its filing. Accordingly, we concur with the finding in Order 01 that the \$1,000 penalty is an appropriate incentive for the Company to ensure timely filings going forward.

¹ Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission, at 9 (January 7, 2013).

ORDER

THE COMMISSION ORDERS That Order 01 in this Docket is AFFIRMED.

DATED at Olympia, Washington, and effective September 1, 2015.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

PHILIP B. JONES, Commissioner

ANN E. RENDAHL, Commissioner