

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

In re Penalty Assessment No.)	DOCKET NO. TC-031704
TC-031704)	
)	ORDER NO. 01
)	
WICKKISER INTERNATIONAL)	ORDER GRANTING
COMPANIES, INC.)	MITIGATION IN PART
)	
.....)	

- 1 **Synopsis:** *The Commission grants a petition for mitigation, in part, and mitigates three \$100 penalty assessments to zero. The Commission denies the remainder of the petition, resulting in a total penalty due and payable of \$1500.*

- 2 On November 10, 2003, the Commission issued a penalty assessment against Wickkiser International Companies, Inc. (Wickkiser or WIC) in the amount of \$1,800 for violations of RCW 81.28.080, WAC 480-30-030, WAC 480-30-050, and WAC 480-30-060, which set requirements for certificates for auto transportation companies, naming rates, fares, and time and route schedules in a company's tariff.

- 3 On December 1, 2003, Richard Johnson, Wickkiser's General Manager, filed a timely petition for mitigation of the penalty assessment. The petition does not seek a hearing and does not request a hearing to contest the factual basis of the penalties.

- 4 On January 16, 2004, the Commission Staff responded to the petition. The Commission in this order grants mitigation, in part, for penalties totaling \$300. The remaining \$1500 in penalties is not mitigated.

BACKGROUND

- 5 Wickkiser, the petitioner for mitigation, is an auto transportation (bus) company that provides service, including airporter service, to communities on the Olympic Peninsula and to communities in northern western Washington as far north as the Canadian border. It has been in business for a number of years.
- 6 The Commission received a private complaint against Wickkiser from a competitor or potential competitor. Commission Staff investigated the complaint, and discovered a number of violations. A penalty assessment for \$1800 resulted, as follows:

Asserted violation	Allegation	Amount
1. Conflicting Tariff Rates RCW 81.28.080 and WAC 480-30-050	Child rates – Wickkiser charges a rate for children under three years of age, which is not an approved rate in the tariff. The tariff states children aged two and under ride for free.	\$300
2. RCW 81.28.080 and WAC 480-30-050	Youth rates – Wickkiser applies different age criteria for youth fares than are listed in the tariff, and therefore charges rates not approved in the tariff	\$300
3. RCW 81.28.080 and WAC 480-30-050	Unaccompanied Minor Rates – Wickkiser charges \$40-per-hour for an unaccompanied minor; a rate not approved in the Company's tariff.	\$300
4. RCW 81.28.080 and WAC 480-30-050	Group & Frequent Traveler Rates – Wickkiser provides discounted rates to groups and frequent travelers that differ from the approved rates in the Company's tariff.	\$200

5. WAC 480-30-060	Time & Route Schedules – Wickkiser changed its route schedules prior to filing revisions to the tariff or providing proper notice to the Commission or the public.	\$600
6. WAC 480-30-030	Certificate Authority – Wickkiser advertises and sells services to Central Washington, an area not within the Company’s authority to serve	\$100

- 7 Wickkiser entered a plea for mitigation by letter from Richard Johnson, the company’s general manager. The Company asked mitigation of all penalties to zero, stating a concern that three of the violations did not occur. He described the remaining violations and the circumstances of operation that led to the violations.
- 8 Commission Staff responded to the petition for mitigation, recommending that three of the 18 violations be fully mitigated.
- 9 Staff stated that alleged violation no. 4 proved to relate to a recharacterization rather than a true change in rates, noted that a tariff change has now been completed, and recommended that the penalties be mitigated to zero.
- 10 Staff also recommended that alleged violation no. 6 on the chart above be mitigated to zero, because Wickkiser’s activities were not undertaken on its own behalf but were administrative (reservation) services provided lawfully to other carriers.

- 11 Staff responded to the remaining items by recommending against mitigation. The Staff recommendation is consistent with the acknowledgment in the Company's plea for mitigation that the remaining violations actually occurred.
- 12 It is clear from the information before the Commission that the remaining violations occurred, and it is also clear that Wickkiser has no valid reason to support its plea for mitigation on these items. It offers excuses or exculpations – the items only affect a few passengers, that the circumstance does not happen often, or that the amounts in question are small, etc., but those are not reasons the excuse the company's failures to comply with the pertinent laws and rules.
- 13 We acknowledge the long and valuable service that Wickkiser cites in its plea for mitigation. However, its place as one of the larger carriers of its kind in the state and its history of compliance demonstrates that it has the experience necessary to know when matters should be attended to and the ability to comply with the law when it wishes to do so. We commend it for its prior good and lawful service and urge it to maintain the reputation of doing so.
- 14 We are concerned, however, that the information does not show clearly that all of the violations have been corrected. If that is true, we urge the company to take corrective action immediately, and to avoid the need for imposition of additional penalties.

ORDER

- 15 The Commission grants in part and denies in part the petition of Wickkiser International Companies, Inc. In doing so, the Commission mitigates to zero, three penalties assessed in the total amount of \$300. The Commission denies mitigation of the remaining fifteen penalties, assessed in the total amount of \$1500, which are now due and payable.

DATED at Olympia, Washington, and effective this 30th day of January 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner

NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-07-870.