

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Penalty Assessment Against
A & B PENINSULA AIRPORTER LLC
F/K/A BARRY & AMY MUHLBAIER
D/B/A A & B SPECIALIZED
TRANSPORT in the Amount of \$100

DOCKET NO. TC-060989

DECLARATION OF
SHERI HOYT

SHERI HOYT, under penalty of perjury under the laws of the state of Washington, declares as follows:

1. I am over 18 years of age, a citizen of the United States, a resident of the state of Washington, and competent to be a witness.
2. I am employed by the Washington Utilities and Transportation Commission (Commission) as a Compliance Specialist in the Business Practices Investigations Section. I have been employed at the Commission for over 13 years, holding various positions. As a Compliance Specialist, my responsibilities include conducting investigations regarding the business practices of regulated utility or transportation companies. As part of those duties, I investigate auto transportation companies that may be operating in violation of Commission statute, rule, or tariff.
3. On July 6, 2006, A & B Peninsula Airporter LLC f/k/a Barry & Amy Muhlbaier d/b/a A & B Specialized Transport (A & B Peninsula Airporter) filed with the Commission an Application for Mitigation of Penalties (Mitigation Request) in Docket No. TC-060989. I have read the Mitigation Request. The Mitigation Request was signed by Ronald K. Stoner. In its Mitigation Request, the company waives a hearing and asks for an administrative decision on the information presented in the request.
4. This Mitigation Request arises from a Notice of Penalties Incurred and Due for Violations of Laws and Rules issued by the Commission on June 30, 2006, in Docket No. TC-060989. In that Notice, the Commission issued a penalty of \$100 for a violation of WAC 480-30-120, which requires auto transportation companies to file annual reports with the Commission by May 1 each year.
5. Before recommending the Commission issue penalties, as part of my job, I conducted an investigation of A & B Peninsula Airporter's records. My investigation resulted in an investigation report titled, "Staff Investigation - 2005 Annual Reports." A true and accurate copy of that investigation report is attached to this declaration as Attachment A.
6. I identified the violation in this case from records maintained by the Commission.

Specific Issues Addressed by A & B Peninsula Airporter in its Mitigation Request

The previous company owners, Barry & Amy Muhlbaier, formed the LLC to transfer the authority due to serious medical issues, and Ronald K. Stoner purchased the company on July 1, 2006.

7. In its Mitigation Request, A & B Peninsula Airporter stated that Barry & Amy Muhlbaier formed the LLC (Limited Liability Company) due to serious medical issues that impeded their operations. The transfer of authority from Barry & Amy Muhlbaier d/b/a A & B Specialized Transport to A & B Peninsula Airporter, LLC was approved by the Commission on June 16, 2006. Barry & Amy Muhlbaier are listed as 100% members of the LLC.
8. My review of the Commission's Annual Reports Tracking System (ARTS) revealed the 2005 annual report for Barry & Amy Muhlbaier d/b/a A & B Peninsula Airporter was received on May 31, 2006.
9. As of the date of this declaration, the Commission has not received an application from A & B Peninsula Airporter to indicate the Muhlbaiers no longer own the company.

Mr. Stoner further states that, given the marginal dollar nature of this much needed public service, a waiver of the penalty would be in the public's best interest.

10. Mr. Stoner did not provide an explanation of how a waiver of the penalty would be in the public's best interest. The violation associated with this matter is appropriate.

Staff Recommendation

11. I recommend the penalty in this matter not be mitigated as the company did operate in the year 2005 and is subject to filing its annual report by May 1. Further, the mitigation application was not filed by the permit holder but by a third party whose name does not appear on the certificate for A & B Peninsula Airporter.

DATED this 25th day of July 2006 at Olympia, Washington.

SHERI HOYT

Attachment A

Auto Transportation Providers Staff Investigation - 2005 Annual Reports June 14, 2006

Purpose

The purpose of this investigation is to determine if 10 auto transportation providers¹ violated Washington Administrative Code (WAC) 480-30-120. WAC 480-30-120 requires auto transportation providers to furnish annual reports to the commission no later than May 1 each year.

Background

This investigation was prompted by commission staff's yearly review of annual reports for auto transportation providers registered in the state of Washington.

On March 8, 2006, the commission mailed 2005 Annual Report forms and 2006 Regulatory Fee packets to auto transportation providers registered in the state of Washington. A letter signed by Executive Secretary Carole Washburn instructed companies to file annual reports and pay regulatory fees by May 1, 2006². The letter stated that failure to file the annual report by May 1 would result in a penalty and possible cancellation of their permit. In addition, the letter required companies requesting an extension to file the annual report to do so prior to May 1.

Investigation

The 10 auto transportation providers listed in attached Appendix A failed to file their 2005 annual report by the May 1 deadline. A review of the commission's Records Management System revealed that none of the auto transportation providers requested an exemption from WAC 480-30-120 to late file their 2005 annual report.

Recommendation:

Penalize the 10 auto transportation providers \$100 each for one violation of WAC 480-30-120, failing to file the 2005 annual report by May 1, 2006.

¹ See Appendix A for a list of the 10 auto transportation providers.

² See Appendix B for a copy of the March 8, 2006, letter sent to auto transportation providers.

Appendix A

	Company Name	Received Yes or No	If yes, Date Received
1.	A & B Peninsula Airporter LLC f/k/a Barry & Amy Muhlbaier	Yes	May 31, 2006
2.	All-Ways Transportation, Inc.	Yes	May 30, 2006
3.	Bremerton-Kitsap Airporter, Inc.	Yes	May 2, 2006
4.	Diamond-West Transportation Co., Inc.	No	
5.	Edward McIntire	No	
6.	Evergreen Trails, Inc.	No	
7.	Genie Service Company, Inc.	No	
8.	Masters, Edward	No	
9.	Miller Schmer Inc.	Yes	May 2, 2006
10.	Thompson, William R. d/b/a Star & Stripes Shuttle	Yes	May 4, 2006

Appendix B



STATE OF WASHINGTON

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250
(360) 664-1160 • TTY (360) 586-8203

March 8, 2006

Subject: Your Auto Transportation Annual Report and Regulatory Fees are Due May 1

State law requires you to file an annual report and pay regulatory fees to the Washington Utilities and Transportation Commission.

What is required of me?

By May 1, you must:

- Complete and file the enclosed 2005 annual report form
- Pay your 2006 regulatory fees

Failure to file your annual report or pay regulatory fees by May 1 will result in a penalty and possible cancellation of your permit to operate in Washington. This is the only notice you will receive from the commission.

What happens if I do not pay my regulatory fees by May 1?

If regulatory fees are not paid by May 1, you will incur:

- a 2 percent penalty on the amount due; and
- a 1 percent monthly interest charge on the unpaid balance.

Can I request an extension of time if I am unable to file the annual report by May 1?

Yes, you must provide the request in writing, including a valid reason for the extension by May 1. We will notify you when your request is approved or denied. You will still be liable for penalty and interest payments if you fail to pay your regulatory fees by May 1. If you are late filing your annual report or fail to file, you could incur additional penalties up to \$100 a day.

Where do I mail the completed annual report form and regulatory fee payment?

Washington Utilities and Transportation Commission
PO Box 47250
Olympia, WA 98504-7250



March 8, 2006

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Where can I obtain an electronic version of the annual report?

Forms are available on our website at www.wutc.wa.gov. Locate "Quick Links" then select "2005 annual reports".

Who do I contact if I have questions?

You may call 360-664-1201 or e-mail us at: annualreports@wutc.wa.gov. If you need this information in an alternate format, please call 360-664-1133. TTY Toll Free phone number is 1-800-416-5289 or 360-586-8203.

Sincerely,



Carole J. Washburn
Executive Secretary

Enclosures