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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Penalty)
Assessment Against,)
Terry Lee Roberson, d/b/a) Docket TE-141075
All Adventure Charter)
Services.)

HEARING, VOLUME I
Pages 1 - 96
ADMINISTRATIVE LAW JUDGE RAYNE PEARSON

9:29 A.M.

AUGUST 26, 2014

Washington Utilities and Transportation Commission
1300 South Evergreen Park Drive Southwest

Olympia, Washington 98504-7250

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A P P E A R A N C E S

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ADMINISTRATIVE LAW JUDGE:

3

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FOR COMMISSION STAFF:

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1 OLYMPIA, WASHINGTON; AUGUST 26, 2014

2 9:29 A.M.

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5 JUDGE PEARSON: Let's be on the record.

6 Good morning. My name is Rayne Pearson, I'm
7 an administrative law judge with the Utilities and
8 Transportation Commission. I am the presiding officer
9 for today's hearing being held at the Commission's
10 headquarters in Olympia. Today is Tuesday, August 26,
11 2014, and the time is 9:30 a.m.

12 Today's proceeding involves a total of 12
13 companies that have requested hearings to contest or
14 mitigate penalties they received for violations of
15 Commission rules related to annual report filing
16 deadlines. The first thing I will do is take a roll
17 call to determine which companies are present.
18 Because there is a court reporter creating a record of
19 today's proceedings, please give a verbal response to
20 the roll call, like "here" or "present," in addition
21 to raising your hand when I call your company's name.

22 So let's start with Docket TE-141056, Caring
23 Hands Transportation, LLC?

24 Okay. Hearing nothing, Docket TE-141062,
25 Execuvan Rental, LLC.

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1 Okay. Hearing nothing, Docket TE-141066, Lady
2 in a Limo?

3 MR. PRIGMORE: Here.

4 JUDGE PEARSON: Thank you.

5 Docket TE-141075, Terry Lee Roberson, d/b/a
6 All Adventure Charter Services?

7 MR. ROBERSON: Here.

8 JUDGE PEARSON: Thank you.

9 Docket TE-141086, Yellow Arrow Lines, LLC?

10 MR. CAMARILLO: Here.

11 JUDGE PEARSON: Thank you.

12 Docket TG-141168, Ludtke Pacific Trucking,
13 Inc.?

14 MR. LUDTKE: Present.

15 JUDGE PEARSON: Thank you.

16 Docket TV-140933 and TV-140970 for A & E,
17 Inc., and Morgan Transfer, Inc.?

18 MR. MICHAEL: Here.

19 JUDGE PEARSON: Thank you.

20 Docket TV-140988, Seattle Select Moving, LLC?

21 MR. HANSON: Here.

22 JUDGE PEARSON: Okay. And Docket
23 TV-140998, Richard D. Worrell?

24 MR. WORRELL: Here.

25 JUDGE PEARSON: Okay, thank you.

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1 And Docket UT-140922, Telewise, LLC?

2 MR. POWER: Here, Your Honor.

3 JUDGE PEARSON: Thank you.

4 Docket UT-140925, TSS Digital Services, Inc.?

5 MR. ELLIS: Here.

6 JUDGE PEARSON: Okay, thank you.

7 The purpose of today's proceeding is to allow
8 each of you the opportunity to either present
9 testimony to contest the violations you received for a
10 delinquent annual report filing or you explain the
11 circumstances that led to the delinquency and why you
12 believe the penalty should be reduced.

13 I will call each of you up to do that
14 individually and you will each have approximately five
15 minutes to present your case. Once you are finished,
16 Commission Staff will make a recommendation and then
17 you will have an opportunity to briefly respond to
18 what Staff had to say. So in a few minutes I will
19 call each company forward. At that time I will swear
20 you in with the oath of witness so that anything you
21 tell the court will be under oath and will be
22 considered sworn testimony. Again, with the
23 court reporter taking everything down, please speak
24 slowly and clearly and be sure to use the microphone
25 that's on the table.

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1 Once you are sworn in I will ask you whether
2 you are disputing or admitting the violations, and
3 then you can present your case. I won't be making any
4 decisions today, but I will take everything that is
5 presented by both parties under advisement and issue
6 an order in each docket within ten days. Once you
7 have presented your case you are free to leave.

8 I just saw someone come into the room. Can
9 you tell me what company that you represent?

10 MR. MANDERVILLE: Caring Hands
11 Transportation.

12 JUDGE PEARSON: Caring Hands
13 Transportation. Okay, thank you.

14 So first let's take an appearance from
15 Commission Staff. Mr. Fassio?

16 MR. FASSIO: Good morning, Your Honor.
17 Michael Fassio, Assistant Attorney General,
18 representing UTC Staff. My address is 1400 South
19 Evergreen Park Drive Southwest, Box 40128, Olympia,
20 Washington 98504. My phone number is (360) 664-1192,
21 fax, (360) 586-5522, and my e-mail address is
22 mfassio@utc.wa.gov.

23 JUDGE PEARSON: Thank you, Mr. Fassio.

24 Does Staff have any general testimony to give
25 this morning?

0008

1 MR. FASSIO: We do, Your Honor.

2 JUDGE PEARSON: Okay, great.

3 MR. FASSIO: I'm ready to proceed, Your
4 Honor, to present Ms. Amy Andrews of Commission Staff.

5 JUDGE PEARSON: Okay. Ms. Andrews,
6 would you please stand and raise your right hand?

7 MS. ANDREWS: (Complies.)

8

9 AMY ANDREWS, witness herein, having been
10 first duly sworn on oath,
11 was examined and testified
12 as follows:

13

14 JUDGE PEARSON: Thank you.

15

16 E X A M I N A T I O N

17 BY MR. FASSIO:

18 Q Good morning. Can you please state and spell
19 your first and last name for the record?

20 A Amy Andrews, A-M-Y, A-N-D-R-E-W-S.

21 Q Who is your employer?

22 A Utilities and Transportation Commission.

23 Q And what is your position with the Commission?

24 A I am a regulatory analyst.

25 Q How long have you held this position?

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1 A I have been with the Commission for two and a
2 half years.

3 Q Could you please describe your duties as they
4 relate to these cases?

5 A My responsibilities are to investigate whether
6 companies regulated by the Commission are in
7 compliance with the rules regarding companies to file
8 their annual report and pay the regulatory fees.

9 Q And are you familiar with the rules that are
10 at issue in this case?

11 A Yes, I am.

12 Q And briefly, what do those rules require?

13 A They require the companies to file their
14 annual report and pay the regulatory fees by May 1st,
15 with exception of the charter and excursion industry,
16 which their regulatory fees are due on December 31st.

17 Q And can you briefly summarize the particular
18 rules that are at issue in these cases?

19 A Yes. For the auto transportation companies
20 and charter and excursion companies that Washington
21 Administrative Code is 480-30-071, for the solid waste
22 companies that is WAC 480-70-071, for the household
23 good carriers that is 480-15-480, and for the
24 telecommunication companies that is 480-120-382.

25 Q Has the Commission allowed companies to file

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1 for an extension of time to file an annual report as
2 long as it is received prior to May 1st?

3 A Yes, it does.

4 Q And any request for an extension is always
5 subject to Commission approval in order to be
6 effective; is that right?

7 A That is correct.

8 Q Whose responsibility is it to ensure that the
9 annual report and regulatory fees are timely filed and
10 paid?

11 A That is the company's responsibility.

12 Q Briefly, for charter and excursion carriers,
13 has the Commission recently changed its rules
14 regarding when the annual reports are due?

15 A Yes, it did. For the 2013 reporting year,
16 charter and excursion companies were then required to
17 pay the regulatory fees by December 31st, with the
18 change being the annual report was not due until
19 May 1st.

20 Q And previously the annual reports, were they
21 due on December 31st of that --

22 A That's correct.

23 Q -- year?

24 Can you describe briefly what the Commission
25 did prior to May 1st, 2014, in regards to the rules

0011

1 requiring annual reports and regulatory fees with
2 respect to the industries presented at the hearing
3 this morning?

4 A Yes. On February 28th the 2013 annual report
5 and 2014 regulatory fee packets were mailed out to all
6 active regulated companies. The instructions in that
7 annual report completion page instructed companies
8 they were to be completed and returned to the
9 Commission no later than May 1st to avoid enforcement
10 action. The instructions also informed the company
11 that they did have the right to request an extension
12 for the report.

13 Q And you have prepared an exhibit in each one
14 of the dockets that's Exhibit AA1. It's an annual
15 report packet. Are those, in each of the dockets,
16 copies of the annual report packets that were mailed
17 to the company?

18 A Yes, they are.

19 MR. FASSIO: I would like at this time
20 to either have the Commission take judicial notice of
21 the annual report packets that were mailed or to admit
22 Exhibits AA1 in each of the dockets today.

23 JUDGE PEARSON: The Commission will take
24 judicial notice of the packets.

25 BY MR. FASSIO:

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1 Q If a company did not receive this mailing for
2 whatever reason, whose responsibility is it to obtain
3 the appropriate forms?

4 A It is the company's responsibility.

5 Q And whose responsibility is it to make sure
6 that a regulated company maintains a current business
7 address on file with the Commission?

8 A That is also the company's responsibility.

9 Q Did the Commission take enforcement action
10 against those companies that failed to file their
11 annual report by May 1st, 2014, and failed to timely
12 request for an extension?

13 A Yes, it did. Penalty assessments were issued.

14 Q And how did the Commission calculate the
15 penalty assessments against the companies in the
16 dockets at issue today?

17 A The penalties were assessed based on \$100 per
18 business day late after the May 1st deadline.

19 Q And when the -- for failure to file a report
20 failure, do you mean failure to file a complete report
21 or report of any kind?

22 A The report does have to be complete.

23 Q So if the Commission receives -- does the
24 Commission consider an annual report that's filed but
25 may be missing certain required elements to be

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1 incomplete for purposes of that filing?

2 A That would be correct.

3 Q In approximately 9 of the 12 dockets that are
4 set for a hearing today, the companies were assessed
5 \$1,000 penalties. Can you explain what that \$1,000
6 penalty amount represents?

7 A Yes, the \$1,000 penalty represents ten
8 business days following May 1st deadline, which would
9 have been May 15th.

10 Q And have you checked the Commission's records
11 recently to verify whether any companies have come
12 into compliance with the annual report and regulatory
13 fee requirements since that penalty assessment?

14 A Yes, I did.

15 Q And when was the last time that you checked?

16 A Monday, August 25th.

17 MR. FASSIO: Thank you, Your Honor.
18 That concludes my general questions of Ms. Andrews.
19 We would like to reserve recalling her individually,
20 as the dockets come up, for some testimony regarding
21 the individual cases.

22 JUDGE PEARSON: Certainly.

23 MR. FASSIO: Thanks.

24 JUDGE PEARSON: So I will call Docket
25 TE-141056, Caring Hands Transportation, LLC. If you

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1 could come to the front of the room.

2 MR. MANDERVILLE: (Complies.)

3 JUDGE PEARSON: Just go ahead and take a
4 seat in the black chair.

5 MR. MANDERVILLE: (Complies.)

6 JUDGE PEARSON: You can turn on the
7 microphone. The red light will come on when the
8 microphone is on.

9 MR. MANDERVILLE: (Complies.)

10 JUDGE PEARSON: Please state your name
11 and address for the record and spell your last name
12 for the court reporter.

13 MR. MANDERVILLE: Caring Hands
14 Transportation. My name is Michael Manderville,
15 M-A-N-D-E-R-V-I-L-L-E.

16 My address or business address?

17 JUDGE PEARSON: Your business address is
18 fine.

19 MR. MANDERVILLE: Post Office Box 323,
20 Kent, Washington 98035-0323.

21 JUDGE PEARSON: Okay. And then phone
22 number and e-mail address?

23 MR. MANDERVILLE: (253) 854-5329. I
24 have no e-mail address.

25 JUDGE PEARSON: Okay. And what position

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1 do you hold with Caring Hands?

2 MR. MANDERVILLE: I'm the owner.

3 JUDGE PEARSON: Okay, thank you.

4 And are you contesting or admitting the
5 violations today?

6 MR. MANDERVILLE: I'm admitting it.

7 JUDGE PEARSON: Okay. So we didn't
8 receive any exhibits from you in advance, so I am
9 ready to take your testimony. If you will stand and
10 raise your right hand.

11 MR. MANDERVILLE: (Complies.)

12

13 MICHAEL MANDERVILLE, witness herein, having been
14 first duly sworn on oath,
15 was examined and testified
16 as follows:

17

18 JUDGE PEARSON: Thank you.

19 The time is now 9:40. You have five minutes,
20 until 9:45, to present your case. Please proceed when
21 you are ready.

22 MR. MANDERVILLE: Well, I just was a
23 little bit surprised about the deadline. I was used
24 to paying a \$25 regulatory fee in the past. The
25 changes, once I got them and I saw that the

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1 packet that was -- how involved it was, I had to go to
2 my tax person and get -- have him figure out the
3 numbers because I'm not a real good numbers person.
4 So he did that.

5 And the other -- there's a lot of other
6 questions I've had about some of the other -- the
7 details of how much -- you know, how many passengers
8 I've carried over the year, and just -- it seemed like
9 it was a huge difference between the -- last year and
10 this year, as far as the regulations and the changes
11 that were made and I wasn't quite ready for that.

12 I'm a sole proprietor, I don't have any
13 employees, so everything has to be done by me.
14 Sometimes it's a little bit overwhelming with the
15 paperwork and the accounting and all the other things
16 that are involved. It just -- I was under the
17 impression that it was still under the
18 December 31st -- or January 31st, when it was due,
19 like in years past. The amount was -- has gone up
20 from, like I said, \$25 per vehicle, which I only have
21 the one, and it's gone up over 10 -- over -- well,
22 it's going to be over \$200 now. The -- I'm a small
23 business. A \$1,000 fine is huge for me. I don't
24 believe it's the fairest way -- to just have a flat
25 \$1,000 fine for everybody is quite fair.

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1 JUDGE PEARSON: Okay, thank you.

2 I notice that Staff only has one exhibit in
3 your file today. Have you filed your annual report
4 yet?

5 MR. MANDERVILLE: I have it with me.

6 JUDGE PEARSON: You have it with you.
7 So you intend to file it today?

8 MR. MANDERVILLE: Well, it's not
9 completed because I still have questions about the
10 amount of people I've carried, how you go about
11 counting them, is that per trip or is that -- is it
12 one per trip or is it a round trip? In other words,
13 if I pick up somebody in the morning and they have a
14 procedure, it takes all day, and then I pick them up
15 at seven o'clock or eight o'clock at night and take
16 them back, is that considered two trips or is that
17 considered one? Is that considered one person or
18 two -- two trips? Or if I pick them up one day and
19 they are admitted to the hospital and I take them back
20 the next day, you know, how do you -- you know, is a
21 one-way trip and a round trip considered the same?

22 JUDGE PEARSON: Okay.

23 MR. MANDERVILLE: Those are the kinds of
24 questions I have.

25 JUDGE PEARSON: Ms. Andrews, is there a

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1 way we can facilitate a meeting between licensing
2 staff and Mr. Manderville?

3 MS. ANDREWS: Yes. I think he is
4 filling out portions of the form that are not related
5 to his authority.

6 JUDGE PEARSON: Okay. And that very
7 well may be.

8 Okay, Mr. Manville, we will make sure that you
9 get your form filled out today. After today's
10 hearing, Staff is going to begin proceedings to cancel
11 certificates for companies who haven't yet filed
12 annual reports, so it's very important that you get
13 that turned in today. Also, for me to consider
14 mitigating your penalty, I will need you to have filed
15 your annual report.

16 I will check back in with Ms. Andrews later
17 today or tomorrow and just make sure that that's taken
18 care of.

19 And can you tell me what steps you will take
20 to make sure that this doesn't happen again next year?

21 MR. MANDERVILLE: Well, now that I have
22 an idea of what goes into this, you know, I will be
23 starting on it earlier. Week to week or day to day I
24 will, you know, taking -- taking an idea of what --
25 what I -- you know, what I'm doing as far as the round

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1 trips and the people I'm taking, the amount of miles
2 I'm driving. All those numbers are recorded, but for
3 one year, a whole year, to get this information, it's
4 time-consuming. So if I -- in the future I will be
5 doing it day by day or week by week, so I can kind of
6 keep it under control a little bit.

7 JUDGE PEARSON: Okay. That sounds like
8 a good plan.

9 Is Staff prepared to make a recommendation?

10 MR. FASSIO: Yes, Your Honor. I have
11 just a couple of questions to complete the record --

12 JUDGE PEARSON: Okay.

13 MR. FASSIO: -- for Ms. Andrews.

14

15 E X A M I N A T I O N

16 BY MR. FASSIO:

17 Q Ms. Andrews, to the best of your knowledge, is
18 the company currently in compliance with respect to
19 regulatory fees for 2014?

20 A Yes, they are.

21 Q To your knowledge has Caring Hands previously
22 been found in violation of WAC 480-30-071?

23 A No.

24 Q Are you prepared to make a recommendation at
25 this time?

0020

1 A I am.

2 Q And what is your recommendation in this case?

3 A Staff recommends the Commission does find the
4 company has committed ten violations of WAC
5 480-30-071. As this is the company's first violation
6 and because of the recent changes in the carrier --
7 charter and excursion carrier rules, we also recommend
8 mitigation in the amount of \$200, on the condition the
9 company does file its completed annual report no later
10 than September 10, 2014, which is ten business days
11 from this hearing.

12 JUDGE PEARSON: Mr. Manderville, do you
13 want to briefly respond to Staff's recommendation?

14 MR. MANDERVILLE: No.

15 JUDGE PEARSON: Okay. Thank you for
16 taking the time to come here today. If you want to
17 wait around until after we are finished --

18 MS. ANDREWS: Or leave contact
19 information.

20 JUDGE PEARSON: -- or leave contact
21 information, that would be fine.

22 I will call the next docket. I don't believe
23 that the company is present, but just to check, Docket
24 TE-141062, Execuvan Rental, LLC.

25 Okay. Hearing nothing, Docket TE-141066, Lady

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1 in a Limo.

2 MR. PRIGMORE: Hello.

3 JUDGE PEARSON: Good morning.

4 Please state your name and address for the
5 record and spell your last name for the
6 court reporter.

7 MR. PRIGMORE: My name is William
8 Prigmore, P-R-I-G-M-O-R-E. My address is 19550
9 International Boulevard, Suite 304, SeaTac 98188.

10 JUDGE PEARSON: Okay. And your phone
11 number and e-mail address?

12 MR. PRIGMORE: (206) 423-9603, and the
13 e-mail is limobuswheel@gmail.

14 JUDGE PEARSON: Okay. And what position
15 do you hold with the company?

16 MR. PRIGMORE: I'm the owner.

17 JUDGE PEARSON: Okay. So I see we
18 didn't receive any exhibits from you in advance, so
19 I'm ready to take your testimony. If you could stand
20 and raise your right hand.

21 MR. PRIGMORE: (Complies.)

22

23 WILLIAM PRIGMORE, witness herein, having been
24 first duly sworn on oath,
25 was examined and testified

0022

1 as follows:

2

3 JUDGE PEARSON: Thank you.

4 And are you contesting or admitting the
5 violations today?

6 MR. PRIGMORE: I am contesting.

7 JUDGE PEARSON: Okay. The time is now
8 approximately 9:50, so you will have until 9:55 to
9 present your case. Go ahead and proceed when you are
10 ready.

11 MR. PRIGMORE: Okay. So first of all I
12 made a name change to Tux Ride, LLC, and that is -- I
13 kept the Lady in a Limo business, but I kept -- we
14 just pretty much changed the name. When I put in for
15 the change of address I did not receive any documents
16 containing any of this stuff to the new address. I
17 actually got an electronic e-mail that said I was not
18 in compliance and I had a fine for \$1,000. I called
19 the UTC immediately. We figured out what the problem
20 was, is that I didn't receive the paperwork. They
21 sent the paperwork and I got it immediately returned
22 within I think about three business days to a week.

23 JUDGE PEARSON: Okay.

24 MR. PRIGMORE: I just -- my whole thing
25 is, is I'm always in compliance with the UTC. There's

0023

1 a lot of stuff going on right now with the compliance
2 issues and all of this stuff. I am definitely working
3 with the UTC at all costs to make everything right. I
4 just didn't get the proper notification for any of
5 this. I mean there was a change I guess in the
6 procedures also.

7 JUDGE PEARSON: Correct.

8 So when did you submit for the address change
9 with the Commission?

10 MR. PRIGMORE: Right when I did the name
11 change.

12 JUDGE PEARSON: Do you know the date?

13 MR. PRIGMORE: I don't have it off the
14 top of my head here. I believe all of that stuff
15 should be on record there.

16 Do you still have me as Lady Lim or Tux Ride?

17 JUDGE PEARSON: The penalty assessment
18 was issued to Lady in the Limo, but I believe that
19 your name has been changed with the Commission.

20 MR. PRIGMORE: I just don't know the
21 transfer and this and that, the times. I do know that
22 when I got the electronic e-mail I took care of this.
23 I have always been on top of everything, so I just --
24 I don't feel like I got proper notification --

25 JUDGE PEARSON: Okay. And --

0024

1 MR. PRIGMORE: -- because of the
2 address.

3 JUDGE PEARSON: What steps are you going
4 to take to ensure this doesn't happen next year?

5 MR. PRIGMORE: Well, I know -- I have
6 all the information now, so I have the dates, so this
7 won't happen again. Like I said, this is a new
8 procedure that just happened this year. I didn't get
9 the proper notation. If I had had it I wouldn't even
10 be here at this point.

11 JUDGE PEARSON: Okay, thank you.

12 I see Staff has a second exhibit in this
13 docket. The exhibit marked AA2 is the company's
14 annual report filed June 3rd, 2014. That is a
15 commission record I will take judicial notice of.

16 Does Staff have additional questions?

17 MR. FASSIO: Not of Mr. Prigmore, but we
18 do have a couple of questions for Ms. Andrews.

19 JUDGE PEARSON: Okay.

20

21 E X A M I N A T I O N

22 BY MR. FASSIO:

23 Q So regarding -- has the -- as of May 15th, had
24 the Commission received the company's 2013 annual
25 report?

0025

1 A No, it had not.

2 Q And as of today, however, has the company come
3 into compliance by filing its complete annual report?

4 A Yes, it has.

5 Q And when did the company file that complete
6 annual report?

7 A On June 3rd.

8 Q And the exhibit that we submitted and the
9 Commission has taken judicial notice of, is that a
10 copy of that annual report that was filed on June 3rd?

11 A Yes, it is.

12 Q To the best of your knowledge, is the company
13 currently in compliance with respect to regulatory
14 fees for 2014?

15 A Yes, it is.

16 Q Has the company taken any other action
17 recently with respect to the company?

18 A Yes, it was -- there was a transfer on
19 authority that was signed and dated and filed with the
20 Commission on April 23rd of 2014, under Docket
21 TE-140740.

22 Q And approximately when was the Commission
23 order that authorized that transfer?

24 A That order was served on May 23rd of 2014.

25 Q So at the time that the annual report was due,

0026

1 he had applied for transfer of authority but that had
2 yet to be approved?

3 A That's correct.

4 Q To your knowledge, has this company been
5 previously found in violation of the rule at issue
6 today?

7 A No.

8 Q Based on your investigation and the carrier's
9 testimony today, are you prepared to make a
10 recommendation?

11 A Yes, we are.

12 Q And what is your recommendation?

13 A Staff would recommend the Commission does find
14 the company has committed ten violations of WAC
15 480-30-071. Because of the transfer authority issue
16 that occurred during the annual report deadline and
17 due to the recent changes in the charter and excursion
18 industry rules, we do recommend the penalty be
19 mitigated to \$200.

20 JUDGE PEARSON: Thank you.

21 Mr. Prigmore, do you wish to respond?

22 MR. PRIGMORE: So you're saying the
23 penalty would be \$200?

24 JUDGE PEARSON: That's Staff's
25 recommendation, yes.

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1 MR. PRIGMORE: Well, I appreciate you
2 lowering it, I guess.

3 JUDGE PEARSON: I will still have to
4 issue a decision --

5 MR. PRIGMORE: Okay.

6 JUDGE PEARSON: -- but that's Staff's
7 recommendation at this time.

8 Thank you for taking the time to come down
9 here today. You are free to go now.

10 MR. PRIGMORE: So you don't make a
11 judgment today or --

12 JUDGE PEARSON: No, I will be issuing
13 orders within ten days.

14 MR. PRIGMORE: Okay. Thank you so much.

15 JUDGE PEARSON: Thank you.

16 Okay. Docket TE-141075, Terry Lee Roberson,
17 d/b/a All Adventure Charter Services.

18 JUDGE PEARSON: Good morning.

19 MR. ROBERSON: Good morning.

20 JUDGE PEARSON: Please state your name
21 and address for the record and spell your last name
22 for the court reporter.

23 MR. ROBERSON: My name is Terry
24 Roberson. My last name is spelled R-O-B-E-R-S-O-N.

25 JUDGE PEARSON: And your address?

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1 MR. ROBERSON: 9700 42nd Street
2 Northeast, Lake Stevens, Washington 98258.

3 JUDGE PEARSON: Okay. And a phone
4 number and e-mail address?

5 MR. ROBERSON: (425) 345-0126. E-mail
6 address is AllAdventuresCharterService -- no,
7 Charters@yahoo.com.

8 JUDGE PEARSON: Okay, thank you.

9 And what position do you hold with the
10 company?

11 MR. ROBERSON: I am the owner.

12 JUDGE PEARSON: Are you contesting or
13 admitting the violations today?

14 MR. ROBERSON: I am contesting.

15 JUDGE PEARSON: We didn't receive any
16 exhibits from you, so I am ready to take your
17 testimony, if you will stand and raise your right
18 hand.

19 MR. ROBERSON: I have an exhibit letter
20 that --

21 JUDGE PEARSON: We can address that in a
22 moment.

23 MR. ROBERSON: Okay.

24

25 TERRY LEE ROBERSON, witness herein, having been

0029

1 first duly sworn on oath, was
2 examined and testified as follows:

3

4 JUDGE PEARSON: Thank you.

5 So the Commission did send out a notice
6 requesting that you send any exhibits to us in advance
7 of the hearing, which we didn't receive from you.

8 MR. ROBERSON: Well, I sent a packet in,
9 or e-mailed some information in, a letter, a
10 statement.

11 JUDGE PEARSON: I think that was your
12 original response --

13 MR. ROBERSON: Yeah.

14 JUDGE PEARSON: -- to the penalty. I do
15 have that.

16 MR. ROBERSON: Yes, I do.

17 JUDGE PEARSON: I have a copy of it
18 already.

19 MR. ROBERSON: Okay.

20 JUDGE PEARSON: So the time is now
21 approximately 9:56. You will have five minutes to
22 present your case. Go ahead and proceed when you are
23 ready.

24 MR. ROBERSON: Well, I've been in
25 business for about five years. I have always been, I

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1 don't know how you would explain it, doing everything
2 right to my best ability. I received this this year
3 and it had a lot of other documents with it that I
4 didn't understand. I called up WTC [sic]. I spoke
5 with -- oh, I can't recall the lady's name. I think
6 it's in my letter. Anyway, I called her up and I
7 asked her to explain to me how much information she
8 actually needs, and all of this information. She said
9 just the basics, so I did that. I said, Okay, trying
10 to get it all sufficient and go with the new modern
11 age of computers. I'm not that computer literate.
12 She gave me an e-mail to send it to, so I did.

13 My understanding of what the e-mail was, was
14 ADons@utc.washington.gov (phonetic). I sent that off.
15 Back then it was dated -- March 6th is when I dated
16 it, signed it and completed it. I assumed that it got
17 there in time. Well, apparently it didn't get there
18 due to the e-mail being wrong, as a clerical error in
19 what I understood.

20 When I did receive the penalty situation
21 information, I got a hold of them immediately. She
22 goes, No, that's not the right e-mail address. And at
23 that time she confirmed that she received it with that
24 new e-mail address. The first time I sent it I didn't
25 get any confirmation that -- I don't know if you guys

0031

1 do that. I didn't get any confirmation that it was
2 received. I just got off the phone, sent it, and left
3 it as a completed order.

4 So at that time I felt that it was in
5 compliance and was done, until I received the
6 information for the penalty.

7 JUDGE PEARSON: Okay. And have you
8 filed a complete report as of today?

9 MR. ROBERSON: Yeah, it should be on --
10 this one here should be on file --

11 JUDGE PEARSON: Okay.

12 MR. ROBERSON: -- this annual. To my
13 knowledge, this did go through at that time.

14 JUDGE PEARSON: I don't have an exhibit
15 from Staff about the annual report. I do have the
16 exhibit marked AA2, which is a notice of penalty
17 assessment in Docket TC-130210, which was issued in
18 2013, for a late-filed 2012 annual report. I will
19 take judicial notice of that penalty assessment.

20 Is Staff prepared to further testify and make
21 a recommendation?

22 MR. FASSIO: Yes, Your Honor. I have a
23 few questions also concerning that annual report and a
24 recommendation.

25

0032

1 E X A M I N A T I O N

2 BY MR. FASSIO:

3 Q Ms. Andrews, did the Commission receive this
4 company's annual report by May 1st?

5 A No, it did not.

6 Q When did the Commission actually receive the
7 company's complete annual report?

8 A May 29th.

9 Q Can you just briefly describe your
10 recollection of contacts that you had with
11 Mr. Roberson after May 1st?

12 A Sure. It was on May 5th that Mr. Roberson
13 contacted the Commission, it was myself, via telephone
14 for assistance in completing the annual report. I did
15 walk him through each of the schedules to let him know
16 which ones were required for the charter and excursion
17 and which were not. At that point I did verbally
18 provide my e-mail address to him to expedite his
19 report being received by the Commission. I did not
20 receive the report at that time.

21 On May 29th, again Mr. Roberson contacted the
22 Commission after receiving his penalty assessment and
23 during this conversation it was discovered that the
24 e-mail that he had sent the report to was an incorrect
25 e-mail address. The address again was provided and

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1 the report was received on the 29th, on the same day.

2 Q To the best of your knowledge is this company
3 currently in compliance with respect to regulatory
4 fees for 2014?

5 A Yes, it is.

6 Q Has this company previously violated WAC
7 480-30-071?

8 A Yes, a penalty assessment was issued in
9 TE-130210 for the 2012 annual report.

10 Q Based on your investigation and the company's
11 testimony today and the written response, are you
12 prepared to make a recommendation at this time?

13 A Yes, I am.

14 Q And what is your recommendation?

15 A Staff would recommend the Commission find the
16 company committed two violations of WAC 480-30-071,
17 with consideration of the May 5th report, with the
18 attempted submission, for a mitigated total assessed
19 penalty of \$200.

20 JUDGE PEARSON: Thank you.

21 Mr. Roberson, do you want to briefly respond
22 to Staff's recommendation?

23 MR. ROBERSON: Well, I appreciate the
24 discount in the penalty, but I feel I shouldn't have
25 to make anything due to a clerical error. Just

0034

1 because I don't hear good doesn't mean I should be
2 penalized for it, you know. I have been, in the past,
3 on time and in compliance with Washington Utilities
4 and Transportation, in everything that I have done.

5 JUDGE PEARSON: Okay. Well, thank you
6 for taking the time to come here today, Mr. Roberson.
7 You are free to go now.

8 MR. ROBERSON: Thank you.

9 JUDGE PEARSON: Thank you.

10 MR. ROBERSON: And who do I speak with
11 downstairs in regards to more regulatory rules, that I
12 can educate myself with?

13 MS. ANDREWS: You can check in with the
14 front desk and they will most likely provide a
15 licensing services staff member to come talk with you.

16 MR. ROBERSON: Because I would like to
17 get a new update on the book.

18 MS. ANDREWS: Okay.

19 MR. ROBERSON: Thank you.

20 JUDGE PEARSON: Thank you.

21 Docket TE-141086, Yellow Arrow Lines, LLC.

22 Good morning.

23 MR. CAMARILLO: Good morning,
24 Mrs. Pearson. My name is Franco Camarillo. Reyna
25 Martinez, who is the owner, I have here a power of

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1 attorney so she can let me speak on her behalf for all
2 the proceedings and the questions and basically our
3 explanation.

4 JUDGE PEARSON: Can you bring that
5 forward, please?

6 MR. CAMARILLO: Sure.

7 JUDGE PEARSON: So you are representing
8 the company today?

9 MR. CAMARILLO: Correct.

10 JUDGE PEARSON: Okay. So if you could
11 just go back to the table and state your name and
12 address for the record and spell your last name for
13 the court reporter.

14 MR. CAMARILLO: My name is Franco,
15 F-R-A-N-C-O, last name Camarillo, C-A-M-A-R-I-L-L-O.
16 I'm the bookkeeper for Yellow Arrow Lines, LLC. Our
17 address is 381 East Main Street, Othello, Washington,
18 that will be O-T-H-E-L-L-O, ZIP code 99344. Our phone
19 number is -- I don't know it by heart but that will be
20 (509) 760-5793. Our e-mail address is
21 lareina0106@gmail.com.

22 JUDGE PEARSON: Okay. And do you hold a
23 position with the company?

24 MR. CAMARILLO: No, I don't, I'm the
25 bookkeeper.

0036

1 JUDGE PEARSON: Okay.

2 MR. CAMARILLO: My regular profession,
3 I'm an insurance agent.

4 JUDGE PEARSON: But you are the
5 bookkeeper for the company?

6 MR. CAMARILLO: Correct, ma'am.

7 JUDGE PEARSON: And will you be
8 contesting or admitting the violations today?

9 MR. CAMARILLO: I'm contesting.

10 JUDGE PEARSON: Okay. And since we
11 didn't receive any exhibits from you in advance, I can
12 take your testimony.

13 MR. CAMARILLO: Sure.

14 JUDGE PEARSON: If you will stand and
15 raise your right hand.

16 MR. CAMARILLO: (Complies.)

17

18 FRANCO CAMARILLO, witness herein, having been
19 first duly sworn on oath, was
20 examined and testified as follows:

21

22 JUDGE PEARSON: Thank you.

23 Okay. The time is now 10:05. You have
24 approximately five minutes, until 10 after 10:00, to
25 present your case, so please go ahead and proceed when

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1 you are ready.

2 MR. CAMARILLO: Thank you.

3 The main reason we actually are here,
4 obviously because we received the notation of \$1,000
5 fine. However, one of the main reasons we are
6 contesting it is because in the packet that we
7 received in March there was an opportunity to file an
8 extension, which we did. However, nowhere in the
9 paperwork that we received from WUTC was stated that
10 all our responses had to be basically certified or
11 registered, so that there was proof that we
12 actually -- either party received the documentation.

13 I believe the WUTC never received our letter.
14 Basically we received first notation when we received
15 an e-mail, and registered mail also to our address,
16 that we were fined. We object to that because the
17 reason we requested an extension, although you guys
18 didn't receive, or they didn't receive it, is because
19 Yellow Arrow Lines, you know, since basically the
20 middle of the March until end of May, they were in,
21 you know, basically meetings so they can merge with
22 another company and expand our business, so we asked
23 for an extension.

24 We didn't know after the merger basically who
25 was going to be the president of the company. At the

0038

1 end of the situation they added two members and
2 several other vehicles. Right now, I believe last
3 week, I believe Yellow Arrow Lines basically will not
4 be under the jurisdiction of the WUTC because of all
5 the federal requirements by the Federal Motor Carrier
6 Safety Administration. Now we have a couple of
7 busses, they are capacity over 50 passengers, and
8 before, for the last year, it was only two vans of 16
9 passengers each.

10 Also, in March I spoke to Tina from the WUTC
11 office, and basically I wanted to find out if we
12 needed to file the report, because legally our
13 business is borderline between charter and another
14 basically category. We do not charge fare for
15 passengers. We are basically contracted with the
16 company we ended up actually merging in a way. They
17 pay us to transport their passengers from Washington
18 state to Los Angeles, California. So sometimes they
19 have passengers in small areas, like where our office
20 is located, in Othello. We transport those passengers
21 to the main office where -- or the main terminal,
22 where they take the other bus.

23 Tina explained to us that indeed we needed to
24 send that documentation. I filed the extension, which
25 was not received, but then we ended up filing our

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1 report. It was late. However, a few days later the
2 whole report was sent back to us stating that we
3 already have basically paid. So it seems that some
4 representatives in the WUTC were thinking we were
5 borderline in different categories. We were forced to
6 file the report and then have to be penalized \$1,000,
7 however, they send it back to us.

8 We don't know right now, at this point -- I
9 understand there has been a lot of changes in the law,
10 and requisitions and everything else. However, you
11 know, at one point, you know, do we know for sure, you
12 know, that that happened. So that's why we are
13 contesting today, because it seems that there was a
14 lot of misinformation. We were not aware that the
15 extension was not received.

16 Also, I believe the WUTC is doing the best
17 that it can, you know, to try to inform every single
18 one of us that are working out there. However, if you
19 want something that I could recommend the company in
20 this case, you know, or the department for that
21 matter, is that we do get an e-mail of the penalty
22 fines, we do get, you know, certified letters that we
23 were penalized in that regard, but no one single time
24 did we ever receive an e-mail just to tell us, hey,
25 your extension period is expiring and we have not

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1 received your documentation. If that would have
2 happened, we would have known at that point that, you
3 know, the document was not received. We probably
4 would have paid or, you know, filed that, you know,
5 documentation the same day or maybe following day,
6 rather than paying \$1,000 fine. It would probably be
7 just \$100 fine.

8 That's basically the information that I have,
9 I can provide today, our testimony from the company.

10 JUDGE PEARSON: Okay, thank you.

11 I see Staff has two exhibits in this docket.
12 The exhibit marked AA2 is the company's annual report
13 filed June 2nd, 2014, and that's a Commission record
14 that I will take judicial notice of.

15 Does Staff have further testimony and a
16 recommendation?

17 MR. FASSIO: We do, Your Honor.

18

19 E X A M I N A T I O N

20 BY MR. FASSIO:

21 Q Ms. Andrews, did the Commission receive this
22 company's annual report by May 1st?

23 A No, it did not.

24 Q When did the Commission actually receive the
25 company's complete annual report?

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1 A June 2nd.

2 Q In its request for a hearing and also in
3 testimony today the company indicated that they
4 submitted a request for extension in April, prior to
5 the deadline that is stated in the instructions. To
6 your knowledge, is there any record of the Commission
7 having received an extension request?

8 A No, there is not.

9 Q To the best of your knowledge is this company
10 currently in compliance with respect to regulatory
11 fees for 2014?

12 A Yes, it is.

13 Q There was some testimony today about something
14 being returned to the company. Do you have any
15 knowledge of that and can you explain?

16 A Yes.

17 Q Okay.

18 A The portion that was returned to the company
19 were the regulatory fees that were paid in June.
20 Those fees were returned because they were based off
21 of the auto transportation authority and not the
22 charter and excursion authority. They paid additional
23 fees that were not due. The report was not returned.

24 Q Has this company previously violated WAC
25 480-30-071?

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1 A No.

2 Q Based on your investigation and the company's
3 written response on record and their testimony today,
4 are you prepared to make a recommendation at this
5 time?

6 A Yes, I am.

7 Q And what is your recommendation in this case?

8 A Staff recommends the Commission find the
9 company committed ten violations of WAC 480-30-071.
10 We also recommend mitigation in the amount of \$200, as
11 this is the company's first violation. We also
12 believe in the good faith effort made by the company
13 to request the extension, despite the Commission not
14 receiving the documents, and due to the recent changes
15 in the charter and excursion industry carrier rules.

16 JUDGE PEARSON: Thank you.

17 Do you wish to respond?

18 MR. CAMARILLO: No.

19 JUDGE PEARSON: Okay. Thank you for
20 taking the time to come here today. You are free to
21 go.

22 Okay. Docket TG-141168, Ludtke Pacific
23 Trucking, Inc.

24 Good morning.

25 MR. LUDTKE: Good morning.

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1 JUDGE PEARSON: Please state your name
2 and address for the record, and spell your last name.

3 MR. LUDTKE: Lloyd Ludtke, 4059
4 Bakerview Valley Road, Bellingham 98226. My phone
5 number --

6 JUDGE PEARSON: Can you spell your last
7 name, please?

8 MR. LUDTKE: L-U-D-T-K-E.

9 My phone number is (360) 733-6670. My e-mail
10 is lloyd@ludtke.com.

11 JUDGE PEARSON: Okay. And what position
12 do you hold with the company?

13 MR. LUDTKE: I am the president.

14 JUDGE PEARSON: And will you be
15 contesting or admitting the violations today?

16 MR. LUDTKE: I admit it.

17 JUDGE PEARSON: Okay. Since we didn't
18 receive any exhibits from you in advance, I'm ready to
19 take your testimony. If you will please stand and
20 raise your right hand.

21 MR. LUDTKE: (Complies.)

22

23 LLOYD LUDTKE, witness herein, having been
24 first duly sworn on oath, was
25 examined and testified as follows:

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JUDGE PEARSON: Thank you.

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The time is now approximately 12 minutes after 10:00. You will have five minutes to present your case, so go ahead and proceed when you are ready.

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MR. LUDTKE: Okay. I wrote it out --

JUDGE PEARSON: Okay.

MR. LUDTKE: -- so I wouldn't forget

anything.

JUDGE PEARSON: Okay.

MR. LUDTKE: Our business started in

1940, incorporated in 1946, and continues today with

29 trucks and some 48 employees. We operate

intrastate and interstate. I'm going to brag a little

here and tell you that just over this last weekend our

company was honored with the safety award for a small

fleet operating under 5 million miles, by the

Washington State Patrol and our trucking association.

I am here today to respectfully ask for

mitigation on a fine imposed on us, which I believe to

be excessive. Our net revenue for the six months of

this year is approximately \$67,000. This fine of

1,000 represents nearly 1 percent of that. I believe

you have in front of you my explanation for the

failure to timely send in our report, but I would just

0045

1 like to explain a little further on the circumstances.

2 We had a valued employee who had been with us
3 for some 12 years. She always tried to do her best to
4 meet all required deadlines. I will be honest here
5 and tell you that I did not know about the previous
6 untimely reports, of which I believe there were two.
7 It wasn't until I had to fire her for incompetence
8 that this and several other matters were discovered.
9 In our history of a company that has been operating
10 for some 74 years and my controlling involvement for
11 some 40 years, I have had my share of penalties, but
12 they all seemed fair and just and circumstances
13 surrounding were justified. I really feel this one is
14 excessive, as the information on our company has not
15 changed that much over the years. And I would be
16 eager to find out what the information is used for and
17 what damage the lateness of the report affected any
18 outcome.

19 As you are aware, I have paid the fine, as per
20 a letter from your commission instructing me to do so,
21 and I am here today on a letter from your commission
22 granting me the opportunity to personally appeal the
23 fine, which I received two days after I paid the fine.

24 I thank you for listening and giving me the
25 opportunity to have my day in court.

0046

1 JUDGE PEARSON: Thank you, Mr. Ludtke.

2 Can you tell me what steps that you are going
3 to take to ensure this doesn't happen again going
4 forward?

5 MR. LUDTKE: The steps I have taken is
6 that I have hired a new accountant. I can absolutely
7 unequivocally tell you that there will never be a late
8 report because he seems to be the one that -- that
9 takes these kinds of things to heart and knows what he
10 has to do. And I can assure that if he doesn't, I
11 will.

12 JUDGE PEARSON: Okay, thank you.

13 I see that Staff has several exhibits in this
14 docket. The exhibit marked AA2 is the company's
15 annual report filed June 6th, 2014, and the exhibit
16 marked AA3 contains two notices of penalty assessments
17 for previously late-filed annual reports in Docket
18 TG-091023 for 2010 and TG-130876 for 2012. These are
19 all commission records that I will take judicial
20 notice of. Is Staff prepared to testify further or
21 make a recommendation?

22 MR. FASSIO: Yes, Your Honor.

23

24 E X A M I N A T I O N

25 BY MR. FASSIO:

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1 Q Ms. Andrews, did the Commission receive this
2 company's annual report by May 1st?

3 A No.

4 Q When did the Commission actually receive the
5 company's complete annual report?

6 A On June 6th.

7 Q Did the company ever file an extension
8 request?

9 A Yes.

10 Q And when was that extension request made?

11 A The extension request was received on May 1.

12 Q Was that extension request denied?

13 A It was.

14 Q And why was that denied?

15 A The extension requests were due prior to
16 May 1.

17 Q To the best of your knowledge is this company
18 currently in compliance with respect to regulatory
19 fees for 2014?

20 A Yes, it is.

21 Q And speaking briefly, has the company ever
22 been previously penalized for violation of WAC
23 480-30-071?

24 A Yes.

25 Q And are those the two penalty assessments that

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1 the Commission has taken judicial notice of today?

2 A Yes.

3 Q Based on your investigation and the company's
4 written submission and the testimony today, is Staff
5 prepared to make a recommendation at this time?

6 A Yes, it is.

7 Q And what is Staff's recommendation?

8 A Staff does not support further mitigation of
9 the penalty due to multiple prior violations.

10 JUDGE PEARSON: Thank you.

11 Do you wish to respond, Mr. Ludtke?

12 MR. LUDTKE: No. Thank you very much.

13 JUDGE PEARSON: Thank you for taking the
14 time to come here.

15 Dockets TV-140933, A & E, Inc., and TV-140970,
16 Morgan Transfer, Inc. I will hear these dockets
17 simultaneously because I understand you are
18 representing both companies --

19 MR. MICHAEL: Sure.

20 JUDGE PEARSON: -- and that you will
21 present an identical set of facts for each case; is
22 that correct?

23 MR. MICHAEL: Correct.

24 JUDGE PEARSON: Okay.

25 Can you state your name and address for the

0049

1 record, spelling your last name for the court
2 reporter?

3 MR. MICHAEL: Mike Michael,
4 M-I-C-H-A-E-L, 2604 Willamette Drive Northeast, Lacey,
5 Washington 98516.

6 JUDGE PEARSON: Okay. And your phone
7 number and e-mail address?

8 MR. MICHAEL: (360) 528-3180, and e-mail
9 is mikeaem@morgantransfer.com.

10 JUDGE PEARSON: And what is your
11 position with each company?

12 MR. MICHAEL: President of both.

13 JUDGE PEARSON: Okay. And are you
14 contesting or admitting the violations today?

15 MR. MICHAEL: Contesting.

16 JUDGE PEARSON: And since we didn't
17 receive any exhibits from you in advance, I can take
18 your testimony at this time. If you will stand and
19 raise your right hand.

20 MR. MICHAEL: (Complies.)

21

22 MIKE MICHAEL, witness herein, having been
23 first duly sworn on oath, was
24 examined and testified as follows:

25

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1 JUDGE PEARSON: Okay, thank you. The
2 time is now approximately 10:20, so you will have five
3 minutes to present your case. Go ahead and proceed
4 when you are ready.

5 MR. MICHAEL: It will take more like 30
6 seconds.

7 JUDGE PEARSON: Okay.

8 MR. MICHAEL: Many years I've done the
9 same thing. I put this report in with the first
10 quarter reports for employment security, L & I,
11 Department of Revenue, federal unemployment, 941s,
12 everything that goes out that same day. This went out
13 on April 30, as it always does, postmarked with the
14 rest of them. I don't know if you have a postmarked
15 envelope here or not.

16 I guess it just comes down to do you honor a
17 postmark or not. If you don't, then you received it
18 on the 2nd from the post office, and that's what it
19 is; and if you honor a postmark, then it's -- then it
20 should be on time.

21 We have never been late before. And I do the
22 same thing every year. They all go out at the same...

23 JUDGE PEARSON: Okay. So Commission
24 rules do require that the reports be received by
25 May 1st, not postmarked by May 1st. In the future you

0051

1 will want to take that into consideration --

2 MR. MICHAEL: Okay.

3 JUDGE PEARSON: -- when you are sending
4 your reports in.

5 MR. MICHAEL: So other years I probably
6 have been late, then. I've never heard about it.

7 JUDGE PEARSON: The rules have become
8 stricter in the past few years, and our enforcement
9 has become stricter as well, for late-filed annual
10 reports, so that's most likely why.

11 Okay. So I see that Staff has filed a second
12 exhibit in this docket. The exhibit marked AA2,
13 actually in both dockets, is the company's annual
14 report filed May 2nd, 2014. That's for Dockets
15 TV-140933 and 140970. Those are Commission records
16 that I will take judicial notice of.

17 If Staff would like to proceed.

18 MR. FASSIO: Thank you, Your Honor.

19

20 E X A M I N A T I O N

21 BY MR. FASSIO:

22 Q The annual reports that were received on
23 May 2nd, how many days past due would that have been?

24 A One.

25 Q And the company has addressed the issue of

0052

1 postmarking on April 30th. The Commission also took
2 judicial notice of the annual report packet. Do those
3 instructions contain any information as to when the
4 Commission considers a report filed?

5 A The instructions pages do say they need to be
6 received by May 1.

7 Q To the best of your knowledge, are each of
8 these companies, A & E, Inc., and Morgan Transfer,
9 currently in compliance with respect to regulatory
10 fees for 2014?

11 A Yes, both companies.

12 Q According to Commission regards, have A & E,
13 Inc., or Morgan Transfer ever previously been
14 penalized for violation of WAC 480-15-480?

15 A No.

16 Q Based on your investigation and the company's
17 submission and testimony today, are you prepared to
18 make a recommendation at this time?

19 A I am.

20 Q And what is Staff's recommendation?

21 A Staff recommends the Commission find the
22 companies committed one violation of WAC 480-15-480.
23 As this is both companies' first violation, Staff
24 recommends mitigation of \$25 per day for a total
25 penalty of \$25 against both companies.

0053

1 JUDGE PEARSON: So a total penalty of
2 \$50?

3 MS. ANDREWS: Correct.

4 JUDGE PEARSON: Okay.

5 Do you wish to respond?

6 MR. MICHAEL: I don't.

7 JUDGE PEARSON: Thank you for taking the
8 time to come here today.

9 MR. MICHAEL: Thank you.

10 JUDGE PEARSON: Docket TV-140988,
11 Seattle Select Moving, LLC.

12 Good morning.

13 MR. HANSON: Good morning.

14 JUDGE PEARSON: Please state your name
15 and address for the record and spell your last name
16 for the court reporter.

17 MR. HANSON: Mike Hanson, H-A-N-S-O-N.

18 JUDGE PEARSON: And your address?

19 MR. HANSON: 6857 - 47th Avenue
20 Northeast, Seattle, Washington 98115.

21 JUDGE PEARSON: Okay. And your phone
22 number and e-mail address, please?

23 MR. HANSON: (206) 486-4301,
24 SeattleSelectMoving@gmail.com.

25 JUDGE PEARSON: And what position do you

0054

1 hold with the company, Mr. Hanson?

2 MR. HANSON: I'm co-owner and operator.

3 JUDGE PEARSON: And are you contesting
4 or admitting the violations today?

5 MR. HANSON: Kind of both, if that's
6 possible.

7 JUDGE PEARSON: It's not possible.

8 MR. HANSON: Oh.

9 JUDGE PEARSON: So are you acknowledging
10 that your --

11 MR. HANSON: Yeah.

12 JUDGE PEARSON: -- annual report was
13 late-filed?

14 MR. HANSON: Oh, yeah.

15 JUDGE PEARSON: So you are admitting the
16 violations but seeking to reduce the penalty, correct?

17 MR. HANSON: Or, yeah, abolish it.

18 JUDGE PEARSON: Okay. So we didn't
19 receive any exhibits from you, so if you will just
20 stand and raise your right hand, I can swear you in
21 and take your testimony.

22 MR. HANSON: (Complies.)

23

24 MIKE HANSON, witness herein, having been
25 first duly sworn on oath, was

0055

1 examined and testified as follows:

2

3 JUDGE PEARSON: Thank you.

4 The time is approximately 10:25, so you have
5 until 10:30 to present your case. Go ahead and
6 proceed when you are ready.

7 MR. HANSON: I'm new, kind of learning
8 as I go along. My buddy had a truck, he said let's
9 start a moving company, so we did. We promptly
10 received a letter that told us to stop by -- you know,
11 if we didn't get all our stuff in by December 19th, I
12 would have to take down the website I built and all of
13 that. We went to great lengths to get that taken care
14 of and be in compliance.

15 And then I can't remember when the class was,
16 but we came to the first class offered and we learned
17 everything about the bill of lading, estimated cost of
18 goods, we went through all of that. When we received
19 our temporary permit we received a letter. I'm just
20 going to read a sentence out of it. "To ensure you
21 receive technical assistance during your evaluation
22 period, we have assigned a motor carrier staff person
23 to help your company become familiar with the rules
24 and regulations governing household good carriers."

25 I just feel like, okay, we did receive the

0056

1 letter and -- well, my business partner did --
2 completely forgot about it. I think if it's an
3 important thing maybe we would receive a phone call
4 saying, hey. I don't even know who you assigned to
5 me. Do you guys?

6 MS. ANDREWS: No.

7 MR. HANSON: Yeah, neither do I. So I
8 don't know who is assisting or helping me comply,
9 but -- I don't know, all we do is receive threats from
10 you guys and like bad letters and nothing else. You
11 know, I got a letter recently saying that we didn't
12 give someone an estimated cost of goods, that they had
13 put on the customer survey form. That person did, I
14 was there for it. And I asked the -- whoever I spoke
15 with -- you know, it was just a warning letter -- I
16 said, Call that customer, I want this off my record.

17 Of course she didn't. She didn't call that
18 customer. I called that customer and she never
19 received a call. No investigation. So who is
20 helping? It says "help," it says here "assistance,"
21 I'm getting none, and so now I have \$1,000 fine.

22 I'm a new business, I'm a small business.
23 That's it. I still haven't filed. It didn't even
24 strike me until I saw other people bring in their
25 reports. Like, oh, I probably should have had my

0057

1 report.

2 But I would like to see that that fine be
3 removed and me get an extension. I can have it in by
4 September 10th, like you gave that first gentleman,
5 easy. I keep very detailed records. And also, if you
6 guys could provide me with whoever was assigned to me
7 to help, that would be helpful.

8 JUDGE PEARSON: Okay. So what I can
9 tell you about that letter is that it is referring to
10 a motor carrier safety specialist, so to help you with
11 safety requirements for your vehicles.

12 MR. HANSON: Why doesn't it say that?

13 JUDGE PEARSON: I'm not sure why the
14 letter doesn't say that, but that's what that's
15 referring to. There are lots of other sections of the
16 Commission that you can call. When you attended the
17 household goods training you were given contact
18 information about who you could contact for technical
19 assistance, with bills of lading and estimates and
20 things of that nature.

21 MR. HANSON: Yeah.

22 JUDGE PEARSON: So if you ever call the
23 Commission, we are happy to assist you and direct you
24 to whoever you need to speak to.

25 MR. HANSON: I called the Commission

0058

1 because I -- you guys give us these customer survey
2 forms that we have to -- so made my own, because I
3 wanted it nice. I have a nice presentation and
4 everything. I called and I said, Is it okay if I make
5 my own, so it looks like this? I never received a
6 call back, not once. I also called to report
7 violators and I got a call back like two and a half
8 months later. And it wasn't even to actually report a
9 violator, I just wanted to see what you guys would do.

10 JUDGE PEARSON: Okay.

11 MR. HANSON: Obviously its...

12 JUDGE PEARSON: Well, that's not what we
13 are here to talk about today.

14 With respect to your annual report, you say
15 you can get it in by September 10th. Can you get it
16 in this week?

17 MR. HANSON: Yeah.

18 JUDGE PEARSON: Okay. If you can get it
19 in by Friday at noon on August 29th, because what's
20 going to happen is, you know, I only have ten days to
21 issue the orders. If I know that you filed it by
22 Friday at noon, then I can take that into
23 consideration and consider mitigating your penalty.
24 If you haven't filed it, then I can't grant you any
25 mitigation. We have to receive that report in order

0059

1 for you to have mitigation, okay?

2 MR. HANSON: Okay.

3 JUDGE PEARSON: So --

4 MR. HANSON: So what happens after I
5 turn it in?

6 JUDGE PEARSON: After you turn it in,
7 then Ms. Andrews will notify me and I can consider
8 that when writing the order.

9 MR. HANSON: Okay.

10 JUDGE PEARSON: And then you won't be
11 facing losing your permit, because that's the next
12 step, is that Staff will file complaints to cancel the
13 authority of companies who haven't yet filed their
14 annual reports.

15 MR. HANSON: Okay.

16 JUDGE PEARSON: Okay.

17 MR. HANSON: Obviously I don't want to
18 lose my authority.

19 JUDGE PEARSON: Right.

20 MR. HANSON: I mean I think the record
21 should show that we -- you know, we have gone to great
22 lengths to comply.

23 JUDGE PEARSON: It's really important
24 that you get your annual report filed.

25 MR. HANSON: Yeah.

0060

1 JUDGE PEARSON: Okay. Is Staff prepared
2 to give further testimony and make a recommendation?

3 MR. FASSIO: Yes, Your Honor.

4

5 E X A M I N A T I O N

6 BY MR. FASSIO:

7 Q For the record, Ms. Andrews, did the
8 Commission receive this company's annual report by
9 May 1st?

10 A No.

11 Q And to the best of your knowledge, is this
12 company currently in compliance with respect to
13 regulatory fees for 2014?

14 A No.

15 Q Would that information be available, whether
16 or not they are, once that annual report is filed?

17 A Yes, once we have the annual report I will be
18 able to make that determination.

19 Q This company is a new company, as they have
20 testified. Can you confirm that the company has ever
21 previously been penalized for violation of WAC
22 480-15-480?

23 A It has not.

24 Q So based on your investigation and the
25 testimony today, are you prepared to make a

0061

1 recommendation at this time?

2 A We are.

3 Q And what is your recommendation?

4 A Staff does recommend the Commission find the
5 company committed ten violations of WAC 480-15-480.
6 As this is the company's first violation, Staff
7 recommends mitigating the penalty to \$25 per day, for
8 a total of \$250, only on the condition that the
9 company submits the completed annual report and pays
10 regulatory fees by the Friday, August 29th at noon
11 deadline provided by the judge.

12 JUDGE PEARSON: Do you wish to respond?

13 MR. HANSON: I still think the penalty
14 is kind of steep.

15 JUDGE PEARSON: Okay. Thank you.

16 Thank you for taking the time to come here today.

17 Okay. Docket TV-140998, Richard Worrell.

18 MR. WORRELL: Hi.

19 JUDGE PEARSON: Good morning.

20 MR. WORRELL: Good morning.

21 JUDGE PEARSON: If you could please
22 state your name and address for the record and spell
23 your last name.

24 MR. HANSON: My name is Richard Worrell,
25 W-O-R-R-E-L-L. My address is 710 - 140th Place

0062

1 Southwest, Lynnwood, Washington 98087.

2 JUDGE PEARSON: Okay. And you your
3 phone number and e-mail address.

4 MR. HANSON: (425) 787-3444, and my
5 e-mail is richiro, which is R-I-C-H-I-R-O,
6 33@gmail.com.

7 JUDGE PEARSON: Okay. And you are the
8 owner of the company, correct?

9 MR. WORRELL: Yes, ma'am.

10 JUDGE PEARSON: Okay. And are you
11 contesting or admitting the violations today?

12 MR. WORRELL: Contesting.

13 JUDGE PEARSON: Okay. Okay. We didn't
14 receive any exhibits from you in advance, so if you
15 will stand and raise your right hand I will swear you
16 in and take your testimony.

17 MR. WORRELL: (Complies.)

18

19 RICHARD D. WORRELL, witness herein, having been

20 first duly sworn on oath, was

21 examined and testified as follows:

22

23 JUDGE PEARSON: Okay, thank you.

24 The time is now approximately 10:30, so you
25 have five minutes to present your case. Go ahead and

0063

1 begin when you are ready.

2 MR. WORRELL: I didn't bring any
3 exhibits because I noticed the exhibit list was
4 basically what I needed to prove or whatever.

5 JUDGE PEARSON: Okay.

6 MR. WORRELL: When I first got my
7 letter -- let me make sure I still -- the letter said
8 that I was late. It didn't say anything, it just --
9 no description, just said you're late. So I was
10 like -- well, actually, first, before I go through
11 that, I checked my e-mail on May 5th. I'm not always
12 in access to my e-mail because of my road travels.
13 I'm not much of an e-mail person. Maybe I should be,
14 it's probably my fault.

15 But in this case I didn't leave out anything
16 that would cause the numbers to differ or the money
17 amount being paid, so therefore -- you guys received
18 my file on April 28th, so it was on time. I forgot to
19 put the mileage in there, that's all. That's all that
20 it was. I forgot to put the mileage on there. And so
21 I was given an e-mail.

22 Like I said -- I think like one of the
23 gentlemen said before, I kind of agree with, I think
24 the route out, when a situation is really simple like
25 this, is a phone call. On your packet, I would assume

0064

1 this is in list of priority: You need a name, you
2 need an address of who you are dealing with, and you
3 want to get a hold of them, there's a phone number,
4 and last an e-mail address.

5 I received it on May 5th and I had
6 correspondence between the Staff. Literally 15
7 minutes later I sent it in, so it was taken care of.
8 I just feel that -- I just feel like just a phone call
9 would have -- five minutes would have handled all of
10 this, and then this -- all of this wouldn't have
11 happened and I wouldn't have had to come down here.

12 But I do admit that -- I mean obviously I
13 didn't put it in there and that was my mistake. But I
14 also want to point out that I checked the year's
15 before filing and it's still not on there. Am I
16 incurring \$100 fine every day since then?

17 I'm kind of thinking that I didn't put it
18 in -- I'm not blaming anybody, but I didn't put it in
19 the year before, I didn't put it in this year, it was
20 a mistake, and nobody caught it before but they caught
21 it this year. I just feel like it just could have
22 been handled in like five minutes, as opposed to not
23 paying the fee or filing late or not getting an
24 extension. This was just a simple -- a line in here
25 that I didn't get.

0065

1 JUDGE PEARSON: Okay. I can assure that
2 that was a Staff oversight last year, that didn't
3 catch that the mileage wasn't filled in. It is the
4 company's responsibility to ensure that the report is
5 filled out totally and completely. We simply don't
6 have the staff resources to call every single company.
7 We do send out e-mails.

8 MR. WORRELL: Isn't that just -- I mean
9 I'm sorry to interrupt. Sorry.

10 JUDGE PEARSON: Well, sending out an
11 e-mail is far less time consuming, if it's a
12 form/template e-mail and you just send it to different
13 companies, than to place phone calls and try to get a
14 hold of people. Because it is the company's
15 responsibility ultimately, you know, it is a courtesy
16 that the Commission sends an e-mail notifying you.
17 It's a courtesy that we send out the forms in
18 February, letting you know that you need to file an
19 annual report, because ultimately the responsibility
20 lies with you, to make sure that your report is filed.

21 MR. WORRELL: Right, right, I stated
22 that. I know that.

23 JUDGE PEARSON: Okay.

24 MR. WORRELL: I'm just asking for a
25 little bit of lenience here. I mean -- I mean I just

0066

1 feel like a phone call might be a little bit longer in
2 the end, but it clears up so much, you know,
3 misconceptions and all of this.

4 JUDGE PEARSON: Okay.

5 MR. WORRELL: It could have been handled
6 on the 29th and not May 5th.

7 JUDGE PEARSON: Okay. So what steps are
8 you going to take to ensure that this doesn't happen
9 again next year?

10 MR. WORRELL: I'm going to make sure I
11 put the miles in there. I don't have a problem with
12 my filings. I do everything myself, all the numbers,
13 it's super easy. I just literally forgot one spot. I
14 almost want to say that, without causing blame,
15 because like I said it's on me, but I mean I missed it
16 last year, no one told me about it. It's not your
17 responsibility, but I guess it is this year, to show
18 me, but it wasn't last year to show me. So, I mean
19 maybe subconsciously I didn't put it in there because
20 I didn't put it in last year. I mean I don't know.
21 I'm just saying --

22 JUDGE PEARSON: Okay.

23 MR. WORRELL: -- it's a very simple
24 mistake that could be cured in a matter of minutes.

25 JUDGE PEARSON: Okay, thank you.

0067

1 So I see that Staff has multiple exhibits in
2 this docket. The exhibit marked AA2 is a copy of the
3 company's incomplete annual report filed April 28th,
4 2014, the exhibit marked AA4 is a copy of the
5 company's replacement Schedule 1 page filed May 5th,
6 2014, and the exhibit marked AA5 is notice of penalty
7 assessment in Docket TV-131010 for a late-filed annual
8 report for the 2012 reporting year. The exhibits
9 marked AA2, AA4 and AA5 are all Commission records
10 that I will take judicial notice of.

11 Mr. Fassio, do you want to address the exhibit
12 marked AA3?

13 MR. FASSIO: Yes, Your Honor, I do have
14 a couple of questions and I will address that exhibit
15 for a completion of the record.

16 JUDGE PEARSON: Okay, thank you.

17 MR. FASSIO: I would just like to hand a
18 copy of that exhibit to this exhibit.

19 MR. WORRELL: I'm looking at it right
20 here.

21

22 E X A M I N A T I O N

23 BY MR. FASSIO:

24 Q Ms. Andrews, I just have a few questions for
25 you, just to ensure a complete record here.

0068

1 Did the Commission receive this company's
2 complete annual report by May 1st?

3 A No, it did not.

4 Q And what did the Commission receive?

5 A An incomplete report, missing mileage on
6 Schedule 1.

7 Q And did Staff contact the company regarding
8 the incomplete report?

9 A Commission Staff did e-mail the company on
10 April 29th.

11 Q And turning to your Exhibit AA3, Page 1, does
12 this describe -- does this show the e-mail
13 communication that Staff made to the company on
14 April 29th?

15 A Yes, it does.

16 Q And did the company respond and provide any
17 additional information at that time?

18 A Yes, it did, on May 5th.

19 Q And does your Exhibit AA3 also describe the
20 communication that you made on May 5th with the
21 company?

22 A Yes, it does.

23 Q So did that e-mail on May 5th complete --
24 serve to complete his report?

25 A Yes, it does.

0069

1 Q And so based on that submission on May 5th, he
2 was assessed a penalty for two violations; is that
3 right?

4 A That's correct.

5 Q To the best of your knowledge is this company
6 currently in compliance with respect to regulatory
7 fees for 2014?

8 A Yes, it is.

9 Q And according to Commission records, has this
10 company been previously penalized for violation --

11 A Yes.

12 Q -- of WAC 480-15-480?

13 A Yes, it has, in TV-131010 for the 2012 annual
14 report.

15 Q Based on your investigation, the company's
16 testimony today and what they have submitted in
17 writing, are you prepared to make a recommendation at
18 this time?

19 A Yes, I am.

20 Q And what is your recommendation?

21 A Staff recommends the Commission find the
22 company committed two violations of WAC 480-15-480.
23 Due to the timely response of the company for the
24 requested information for the 2013 report and the 2012
25 report being accepted without mileage, Staff also

0070

1 recommends mitigation of \$50 per day, as this is the
2 company's second violation, for a total penalty of
3 \$100.

4 JUDGE PEARSON: Okay, thank you.

5 Mr. Worrell, did you have any objection to
6 admitting Exhibit AA3 into the record?

7 MR. WORRELL: I just have a couple
8 questions on it.

9 JUDGE PEARSON: Sure.

10 MR. WORRELL: It says that it's issued
11 August 8th.

12 JUDGE PEARSON: Okay.

13 MR. WORRELL: I don't understand that.
14 I mean I'm already in court way before of something
15 that happened in May 1st. I mean -- and all of a
16 sudden in 2013, on August 8th, I'm assessed a penalty
17 of \$50 for a late --

18 JUDGE PEARSON: Okay. That's --

19 MR. WORRELL: -- filing?

20 JUDGE PEARSON: That's not what I am
21 talking about. That's a Commission record that I have
22 already taken notice of. I'm talking about
23 Exhibit AA3. It's the e-mail correspondence between
24 you and Commission Staff.

25 MR. WORRELL: Oh, okay.

0071

1 JUDGE PEARSON: Do you have any
2 objections to that?

3 MR. WORRELL: No.

4 JUDGE PEARSON: Then I will admit
5 Exhibit AA3.

6 Did you want to respond to Staff's
7 recommendation?

8 MR. WORRELL: I just -- it says right
9 here, Mover's incomplete annual report. I know it's
10 incomplete, but it says filed April 28th. I mean it
11 kind of goes against what you are saying here. It was
12 incomplete so it wasn't really filed, but it says it
13 was incomplete, filed on April 28th.

14 JUDGE PEARSON: It is considered filed
15 when we received it, but it can be filed incomplete.

16 MR. WORRELL: Okay.

17 JUDGE PEARSON: Reports can be filed
18 incomplete.

19 MR. WORRELL: It just sounds like --
20 when you say it right here, it just sounds like it
21 came late, you know. I did put it in on time, it just
22 was not...

23 JUDGE PEARSON: I understand that.

24 MR. WORRELL: Okay.

25 JUDGE PEARSON: Well, thank you for

0072

1 taking the time to come here today.

2 MR. WORRELL: Thank you.

3 JUDGE PEARSON: Okay. Docket UT-140922,
4 Telewise, LLC.

5 MR. POWER: Good morning.

6 JUDGE PEARSON: Good morning.

7 Please state your name for the record and
8 spell your last name for the court reporter.

9 MR. POWER: My name is Charles, P, like
10 Peter, O-W-E-R.

11 JUDGE PEARSON: And your address?

12 MR. POWER: 7023 Northeast 175th Street,
13 Suite H, Kenmore, Washington 98028.

14 JUDGE PEARSON: Okay. And your phone
15 number and e-mail address?

16 MR. POWER: My phone number is
17 (877) 771-4261. My e-mail address is
18 charles@telewise.com.

19 JUDGE PEARSON: Okay. And I understand
20 you are the managing member of the company?

21 MR. POWER: I am, yes.

22 JUDGE PEARSON: Okay. And are you
23 contesting or admitting the violations today?

24 MR. POWER: I am contesting.

25 JUDGE PEARSON: Contesting, okay.

0073

1 Mr. Power, you submitted several documents in
2 advance and Staff has received copies of those.

3 Does Staff have any objections?

4 MR. FASSIO: No.

5 JUDGE PEARSON: Okay.

6 MR. POWER: I was asked to bring an
7 original and three copies it said, so I have those
8 here.

9 JUDGE PEARSON: Okay. If you can
10 provide one to Mr. Fassio and one to me.

11 MR. POWER: (Complies.)

12 JUDGE PEARSON: I will admit these into
13 evidence and mark them as Exhibit CP1.

14 I am ready to take your testimony. If you
15 would stand and raise your right hand.

16 MR. POWER: Okay.

17

18 CHARLES POWER, witness herein, having been
19 first duly sworn on oath,
20 was examined and testified
21 as follows:

22

23 JUDGE PEARSON: The time is now just
24 after 10:40, so you have five minutes to present your
25 case. You can begin whenever you are ready.

0074

1 MR. POWER: Every year Telewise mails in
2 their annual report on time, except last year, we were
3 a day late and paid a \$25 fine. This year we filed
4 electronically. We filed the income statement, the
5 balance sheet and the regulatory fee schedule. We
6 filed the same information electronically this year
7 that we filed every year by paper -- or by mail. We
8 got the confirmation e-mail saying there were three
9 items that were requested, or the three items we
10 believe were requested, or the only three items.

11 It said on the confirmation e-mail that they
12 were received April 30th, which was one day before the
13 deadline, so we thought everything was fine. June 2nd
14 we got a letter from the UTC saying that we didn't
15 file, or we didn't file a complete statement. It
16 didn't say what we didn't -- what we did wrong, we
17 weren't too sure. On June 6th we sent in a letter
18 saying we believe we were in compliance, we filed on
19 time and we filed everything. And then on -- we got a
20 letter June 29th saying that we were to come to the
21 hearing and that we were subject to \$1,000 fine.

22 I'm not sure -- weren't not really -- Telewise
23 isn't sure what we are not in compliance with and why
24 we are being fined. We don't understand.

25 JUDGE PEARSON: Okay. So is it your

0075

1 understanding that you have filed a complete annual
2 report as of today or not?

3 MR. POWER: My understanding is we
4 filed -- on April 30th we filed electronically and
5 have the confirmation saying we did, so we feel we are
6 in compliance.

7 JUDGE PEARSON: Okay.

8 MR. POWER: We don't understand how
9 we -- why the UTC would think we are not. We're not
10 sure.

11 JUDGE PEARSON: Okay. I'm sure Staff
12 can provide more information about that.

13 MR. POWER: Okay.

14 JUDGE PEARSON: What steps will you be
15 taking to ensure that your report is received timely
16 next year?

17 MR. POWER: Well, we believe it was
18 filed timely and was filed --

19 JUDGE PEARSON: Complete, I should say.

20 MR. POWER: -- one day early. We
21 believe it was filed -- I would like to hear from the
22 Commission, what we did wrong, and if there was
23 something we did do wrong we will make sure that...

24 JUDGE PEARSON: Okay. So you are still
25 not clear about what was --

0076

1 MR. POWER: We're not clear what we did
2 wrong. We filed like we do every year, we just filed
3 electronically.

4 JUDGE PEARSON: Okay.

5 THE WITNESS: The same information that
6 we filed by mail, we filed electronically. We got the
7 confirmation that we did file on time and there was no
8 indication what we did wrong.

9 In the letter from the UTC on June 2nd, it
10 said we didn't file a complete return, but there was
11 no indication what wasn't complete about it, so we're
12 not sure. We would like to know what we did wrong.
13 It's not clear to us, but there's something we did
14 wrong.

15 JUDGE PEARSON: Okay, thank you.

16 So I see Staff has two additional exhibits in
17 this docket, aside from the annual report packets that
18 were mailed out in February. The Exhibit marked AA2
19 is a copy of the company's filing receipt, regulatory
20 fee calculation schedule and redacted financial sheets
21 that were filed on April 30th, 2014, and the exhibit
22 marked AA3 is a notice of penalty assessment in Docket
23 UT-130858, for a late-filed annual report for the 2012
24 reporting year. Each of these exhibits are Commission
25 records that I will take judicial notice of.

0077

1 Is Staff prepared to give further testimony
2 and make a recommendation?

3 MR. FASSIO: Yes, Your Honor.

4

5 E X A M I N A T I O N

6 BY MR. FASSIO:

7 Q Ms. Andrews, can you confirm that the company
8 was sent a packet of materials on February 28th, 2014,
9 the annual report packet?

10 A Yes.

11 Q Did the Commission receive this company's
12 complete annual report, in other words, what is shown
13 on each of those pages of that annual report packet,
14 by May 1st?

15 A No, it did not.

16 Q What exactly did the Commission receive by
17 May 1st?

18 A The Commission received the regulatory fee
19 sheet and a redacted set of financials, which included
20 the balance sheet and the income statement.

21 Q And based on the regulatory fee calculation
22 sheet, does it indicate any regulatory fees were due?

23 A No regulatory fees are due.

24 Q To the best of your knowledge, at that time
25 did the Commission receive any nonredacted financial

0078

1 statements?

2 A No.

3 Q By May 1st, did the Commission receive Page 1
4 of the annual report?

5 A No.

6 Q Did the Commission receive Page 3 of the
7 annual report, the certification page?

8 A No.

9 Q Did the Commission receive Page 4 of the
10 annual report?

11 A No.

12 Q So just to clarify, has the Commission
13 received as a filing any of the documents, other than
14 the ones that the Commission has already taken
15 judicial notice of, that we had provided as AA2?

16 A No.

17 Q In this case, did the Commission take any
18 particular action when that filing was made on
19 April 30th?

20 A No, it did not.

21 Q And can you explain why not?

22 A Those documents are what is submitted when a
23 company is also going to be filing an extension
24 request, because they have to show they either owe and
25 have paid their regulatory fees or they have not, they

0079

1 do not owe any fees.

2 Q Did the company request particular
3 confidential treatment under WAC 480-07-160 to your
4 knowledge?

5 A It was not stated per the WAC, only the
6 redacted markings were made.

7 Q So if a company wanted their filings to be
8 accorded confidential treatment, are there
9 instructions on Page 2 of that annual report form that
10 direct them to the appropriate Commission rules
11 concerning requirements for a confidential filing?

12 A Yes, it does.

13 Q Were the documents that were submitted labeled
14 confidential at all?

15 A No, they were not.

16 Q And has the Commission received any unredacted
17 versions of those documents?

18 A No, it has not.

19 Q Does Telewise have any previous violations of
20 WAC 40-120-380 -- 382?

21 A Yes, it does. In UT-130858, for the 2012
22 annual report.

23 Q So at this time the Commission is still in --
24 has not received at least three of the pages of the
25 annual report?

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1 A That is correct.

2 Q Based on your investigation and the company's
3 testimony and their written submissions today, are you
4 prepared to make a recommendation at this time?

5 A I would like to request to hold that
6 recommendation until the end of the hearing.

7 Q Okay.

8 JUDGE PEARSON: So if I understand
9 correctly, Mr. Power, you are missing -- and correct
10 me if I'm wrong, Ms. Andrews -- Page 1, Page 3, Page 4
11 and nonredacted financial sheets --

12 MS. ANDREWS: Correct.

13 JUDGE PEARSON: -- is that correct?

14 Okay.

15 MR. POWER: Page 1, 3 and Page 4 of the
16 financial --

17 MS. ANDREWS: Of the annual report.

18 MR. POWER: Annual report.

19 JUDGE PEARSON: In addition, the
20 nonredacted financial sheets, so it's actually four
21 pieces.

22 MR. POWER: And if we -- okay. So to
23 get them -- to send them in redacted we have to get
24 special permission or we have to send them in
25 nonredacted?

0081

1 JUDGE PEARSON: If you are seeking
2 confidential status there is a WAC that directs you
3 how to request that.

4 MR. POWER: Okay.

5 JUDGE PEARSON: Otherwise, we will need
6 the nonredacted version.

7 MR. POWER: Okay.

8 JUDGE PEARSON: So do you think you can
9 have those filed by Friday at noon?

10 MR. POWER: Friday noon at the latest,
11 yes.

12 JUDGE PEARSON: Okay, good. Do you wish
13 to respond to -- I guess there is nothing to respond
14 to right now, sorry.

15 MR. POWER: I'll just get to work here.

16 JUDGE PEARSON: We'll come back to that.

17 Okay, okay. Well, I will go ahead and call
18 the last docket, then.

19 MR. POWER: Okay.

20 JUDGE PEARSON: Okay. Docket UT-140925,
21 TSS Digital Services, Inc.

22 UNIDENTIFIED SPEAKER: Excuse me, I
23 think Charles gave you the originals that were
24 supposed to go back to our office.

25 MR. POWER: No.

0082

1 UNIDENTIFIED SPEAKER: Are you sure?

2 JUDGE PEARSON: This does say "Original"

3 on it. Did you need that back?

4 MR. POWER: No, that's fine. That's

5 yours. Thank you.

6 JUDGE PEARSON: If you will just stick

7 around until we are done with this docket.

8 MR. POWER: Am I supposed to stay?

9 JUDGE PEARSON: Yes, yes, we need you to

10 wait here.

11 MR. POWER: I'm sorry.

12 JUDGE PEARSON: Good morning.

13 MR. ELLIS: Hi.

14 JUDGE PEARSON: Can you state your name

15 and address for the record and spell your last name

16 for the court reporter?

17 MR. ELLIS: Sure. My name is Tom Ellis,

18 E-L-L-I-S. My address is Post Office Box 69, Olympia,

19 Washington 98507. My telephone number, (360)

20 915-1000. My e-mail address is

21 tom.ellis@tssdigital.com.

22 JUDGE PEARSON: Okay, thank you.

23 And what position do you hold with the

24 company?

25 MR. ELLIS: I am the chief technical

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1 officer and I sit on the board of directors.

2 JUDGE PEARSON: And are you contesting
3 or admitting the violations today?

4 MR. ELLIS: I am contesting.

5 JUDGE PEARSON: Okay. So since we
6 didn't receive any exhibits from you in advance, if
7 you will go ahead and stand and raise your right hand
8 I will take your testimony.

9 MR. ELLIS: Sure.

10

11 TOM ELLIS, witness herein, having been
12 first duly sworn on oath, was
13 examined and testified as follows:

14

15 JUDGE PEARSON: Thank you.

16 The time is now 10:50. You have until 10:55
17 to present your case. Go ahead when you are ready.

18 MR. ELLIS: Sure. We filed our annual
19 report on time, one day ahead of time. We thought it
20 was complete. We got a notice saying that they needed
21 some financial statements.

22 The service that we provide is all VoIP.
23 Based on my knowledge, we didn't really need to file
24 any financial statements. We have filed financial
25 statements in the past. The financial statements we

0084

1 have filed in the past, going back as many years as I
2 have found, were our corporate calendar year, not the
3 ando (phonetic) year. That's it. I don't believe
4 that we are -- should pay a penalty because we aren't
5 really required because everything we do is VoIP.

6 The Commission back in 2011 took a look at how
7 we do VoIP, and admitted that yes, we were doing it
8 correctly. That's kind of where we sit.

9 We have been late in the past, as far as
10 filing our annual reports, due to staffing problems.
11 We have paid whatever little penalty that was in the
12 past, I believe. That's about it.

13 JUDGE PEARSON: Okay, thank you.

14 And what steps is the company taking to ensure
15 that this won't happen again next year?

16 MR. ELLIS: Well, we put it on the
17 calendar. We are only about a mile away, so we just
18 actually hand carry the stuff over here every year.

19 JUDGE PEARSON: Okay. I see that Staff
20 has multiple exhibits in this docket. The exhibit
21 marked AA2 is a copy of the company's incomplete
22 annual report filed April 30th, 2014, the exhibit
23 marked AA3 is a redacted copy of the company's
24 financial statements filed May 13, 2014, and the
25 exhibit marked AA5 is a series of penalty assessments

0085

1 issued in Dockets UT-071286, 081143 and 121016, for
2 late-filed annual reports for the reporting years
3 2006, 2007 and 2011 respectively.

4 AA2, AA3 and AA5 are all Commission records
5 that I will take notice of. And I guess, Mr. Fassio,
6 you will likely address AA4 in Staff's testimony and
7 recommendation; is that correct?

8 MR. FASSIO: Yes, Your Honor.

9 JUDGE PEARSON: Okay, go ahead and
10 proceed.

11 MR. FASSIO: I'm going to hand you a
12 copy of that exhibit, AA4.

13 MR. ELLIS: Thanks.

14

15 E X A M I N A T I O N

16 BY MR. FASSIO:

17 Q Ms. Andrews, did the Commission receive a
18 complete annual report filing from this company by
19 May 1st?

20 A No.

21 Q The Commission filed something by May 1st.
22 What exactly was filed at that time?

23 A The Commission received an incomplete annual
24 report. It was missing Schedule 1, Part D, which is
25 the revenue confirmation, as well as the company

0086

1 financials.

2 Q Can you describe the communications between
3 Staff and the company after May 1st concerning that
4 filing?

5 A On May 1st Staff contacted the company via
6 e-mail to notify the company of the missing
7 information. On May 13th, Staff contacted the company
8 again via e-mail to notify the company the information
9 has still not been received. On the same day,
10 May 13th, TSS Digital Services submitted the company
11 financials, however, they did not cover the January
12 through December 2013 time period as required.

13 Mr. Ellis wrote the financials provided
14 matched the company current open year. He also stated
15 a revised Schedule 1 should have been e-mailed. He
16 then contacted me on May 13th via telephone and he
17 stated that the cost to have the financials redone for
18 the calendar year was a cost of \$100 and that
19 Schedule 1 was provided despite the Commission not
20 receiving that document.

21 Q So the Commission has already taken judicial
22 notice of the financial statements received on
23 May 13th.

24 So just to clarify, as of today the company is
25 not in compliance. What is it that the Commission

0087

1 still requires the company to provide?

2 A We still require Schedule 1, Part D to be
3 complete, and we require the financials to cover the
4 January through December 2013 period.

5 Q To the best of your knowledge, is the company
6 currently in compliance with respect to any regulatory
7 fees for 2014?

8 A Yes, there were no regulatory fees due based
9 on the revenues.

10 Q And briefly, has TSS Digital Services
11 previously been found in violation of WAC 480-120-382?

12 A Yes, as the judge has already described.

13 Q Based on your investigation and the company's
14 submissions and their testimony today, is Staff
15 prepared to make a recommendation at this time?

16 A Yes.

17 Q What is Staff's recommendation?

18 A Staff recommends the Commission find the
19 company committed ten violations of WAC 480-120-382.
20 Staff does not recommend mitigation due to the
21 company's failure to submit a complete annual report
22 and also include the financials for the period from
23 January to December 2013, in addition to the previous
24 violations.

25 Q Thank you.

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1 MR. FASSIO: At this time I move to
2 admit Exhibit AA4 into the record.

3 JUDGE PEARSON: Okay.

4 Mr. Ellis, do you have any objections to
5 admitting the documents showing the e-mails back and
6 forth between you and Staff?

7 MR. ELLIS: No, that's fine.

8 JUDGE PEARSON: I will admit
9 Exhibit AA4.

10 Mr. Ellis, are you prepared to file the
11 missing pieces of the report by Friday at noon?

12 MR. ELLIS: So the missing pieces are
13 the annual report and our financials for the calendar
14 year; is that --

15 MS. ANDREWS: That is correct.

16 MR. ELLIS: And what else is missing?

17 MS. ANDREWS: Schedule 1, Part D was
18 left blank, which is the revenue confirmation section.

19 MR. ELLIS: I will have to look. I'm
20 not sure about that, but I'll take a look and see.

21 Yeah, I can file those. But I do have a
22 statement here.

23 Over the past years that we have filed our
24 annual reports, they have always been our corporate
25 calendar year, always. We have never ever filed a

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1 calendar year for, you know, January 1 to
2 December 31st, ever.

3 JUDGE PEARSON: Okay. Is --

4 MR. ELLIS: And we've never been
5 questioned before.

6 MS. ANDREWS: I don't have any
7 information available at this time.

8 JUDGE PEARSON: Okay, okay.

9 MR. ELLIS: We have all of the ones that
10 we have ever filed. Yeah, we went back and took a
11 look at them. We have always filed from October 1st
12 to September 31, which is our corporate calendar year.

13 JUDGE PEARSON: Okay.

14 MS. ANDREWS: Judge Pearson, I do recall
15 that the company has had multiple years where they
16 reported no regulated revenues. On those particular
17 years. The Commission would not have required company
18 financials, so that could also play into it.

19 JUDGE PEARSON: So something has changed
20 this year, then?

21 MS. ANDREWS: Yes, because --

22 JUDGE PEARSON: Okay.

23 MS. ANDREWS: -- they reported some
24 revenues.

25 MR. ELLIS: I have a question.

0090

1 Regulated -- now, what we filed was regulated, even
2 though we do VoIP. Is that still part of the
3 regulated amount that's on here?

4 MS. ANDREWS: There are very intricate
5 rules around that.

6 MR. ELLIS: I understand. That's what
7 I'm saying.

8 MS. ANDREWS: I would not be answering
9 that question.

10 MR. ELLIS: I believe that we probably
11 were not required to put any revenue on that line
12 because we do do VoIP.

13 JUDGE PEARSON: We can certainly put you
14 in contact with someone in the telecom section who can
15 answer your questions.

16 MR. ELLIS: Yeah, we've got plenty of
17 documentation. We have talked to you guys over many
18 years about this.

19 JUDGE PEARSON: Okay, okay. Well, as
20 long as you can make sure and get it completed by
21 Friday, because again you will be in danger of having
22 your certificate cancelled if the annual report isn't
23 completed. That's the next step that Staff will take.

24 MR. ELLIS: Okay. I may have a problem
25 getting the income statement for the calendar year by

0091

1 Friday --

2 JUDGE PEARSON: Okay.

3 MR. ELLIS: -- because that's an
4 accountant thing.

5 JUDGE PEARSON: Okay.

6 MR. ELLIS: You know, something's going
7 to have to be done as far as that is concerned, as far
8 as filing that calendar year one. I may have a
9 problem with that.

10 JUDGE PEARSON: Okay.

11 MR. ELLIS: I mean we did file -- like I
12 said, we filed -- in the past years, we filed exactly
13 what we've always filed.

14 JUDGE PEARSON: Okay. Well, I will just
15 need you to stay in contact with Ms. Andrews, then.
16 Keep her posted as to the status because she will be
17 the Staff person who will be bringing forth the
18 cancellations.

19 MR. ELLIS: Okay.

20 JUDGE PEARSON: The more communication
21 you have with her the better, to not put your
22 authority at risk.

23 MR. ELLIS: Okay.

24 JUDGE PEARSON: Okay, all right.

25 Thank you for taking the time to come here today.

0092

1 MR. ELLIS: You're welcome.

2 I'm just trying to find the document that I
3 need to file.

4 JUDGE PEARSON: Okay.

5 MR. ELLIS: Maybe I can get some help
6 here. Can you show me the document that we didn't
7 file?

8 MS. ANDREWS: The portion of the
9 Schedule 1?

10 MR. ELLIS: Yes, please.

11 MS. ANDREWS: Yes.

12 JUDGE PEARSON: Mr. Fassio, did Staff
13 want to take a brief recess before recalling the last
14 docket?

15 MR. FASSIO: We may need a minute off
16 the record to confirm that we are ready, but I believe
17 that we are prepared to move forward with the
18 recommendation as to the previous docket.

19 JUDGE PEARSON: Okay.

20 MR. ELLIS: All right. Thank you.

21 JUDGE PEARSON: Thank you.

22 (A brief recess.)

23 JUDGE PEARSON: Docket UT-140922,
24 Telewise, LLC. Mr. Fassio, you can proceed when you
25 are ready.

0093

1 E X A M I N A T I O N

2 BY MR. FASSIO:

3 Q Is Staff prepared to make a recommendation in
4 this case?

5 A Yes, we are.

6 Q What is Staff's recommendation regarding the
7 docket for Telewise, LLC?

8 A Staff recommends the Commission find the
9 company committed ten violation of WAC 480-120-382.
10 Staff does recommend mitigate of \$50 per day, instead
11 of the \$100 per day, as we do believe that the company
12 had a good faith effort to file a completed annual
13 report. We do offer this recommendation on the
14 stipulation that the annual report is filed completely
15 with the financials by Friday at noon, August 29th.

16 JUDGE PEARSON: Okay, thank you.

17 Do you wish to respond?

18 MR. POWER: So the fine would be 500 --

19 MS. ANDREWS: It would be a total of 500
20 instead of the \$1,000.

21 MR. POWER: It seems now that I
22 understand that we did something wrong or filed
23 incorrectly, however, our total revenues for the year,
24 intrastate state revenues are 4,000, so a fine of 500
25 would be, you know, 12 percent of our entire revenue.

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1 It seems a little harsh, but...

2 JUDGE PEARSON: I will certainly take
3 your revenue into consideration as well.

4 MR. POWER: Thank you very much.

5 JUDGE PEARSON: Okay.

6 MR. POWER: I will make sure by Friday
7 we -- I just want to make it a little clearer. Now,
8 when you say Page 1, 3 and 4 of the annual report,
9 that's -- you're talking about -- you're talking
10 about --

11 MS. ANDREWS: The cover page.

12 MR. POWER: -- this?

13 Oh, this, and Page 3 and Page 4, send that in,
14 and plus our -- the balance sheet, the regulatory fee
15 schedule and the income statement.

16 MS. ANDREWS: Yes.

17 MR. POWER: Un -- nonredacted?

18 MS. ANDREWS: Correct.

19 MR. POWER: Perfect. Okay, I've got it.
20 Okay. We can have that in. I have them all here
21 except for the nonredact -- the financials, so I'll
22 that in by Friday.

23 JUDGE PEARSON: Okay, great. Thank you.

24 MR. POWER: Thank you very much.

25 JUDGE PEARSON: Yes. Thank you for

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1 coming down here today.

2 I think that concludes today's proceedings,
3 unless you have anything further?

4 MR. FASSIO: No.

5 JUDGE PEARSON: Okay. We are adjourned.

6 (Proceeding concluded 11:04 a.m.)

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I, Sherrilyn Smith, a Certified

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Shorthand Reporter in and for the State of Washington,

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do hereby certify that the foregoing transcript is

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true and accurate to the best of my knowledge, skill

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and ability.

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