

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

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| In the Matter of the Penalty Assessment |) | DOCKET TE-130204 |
| Against |) | |
| |) | ORDER 01 |
| JOHN CHI |) | |
| JOHN CHI INTERNATIONAL CORP. |) | INITIAL ORDER GRANTING |
| |) | MITIGATION |
| In the Amount of \$600 |) | |
| |) | |
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- 1 **Procedural History.** On March 5, 2013, the Washington Utilities and Transportation Commission (Commission) issued a penalty assessment against John Chi International Corp. (John Chi) in the amount of \$600 for violations of WAC 480-30-071, which requires charter and excursion companies to file annual safety reports with the Commission by December 31 each year, and WAC 480-30-076, which requires such companies to pay regulatory fees annually on that date.

- 2 On March 12, 2013, John Chi filed with the Commission a request for hearing stating that he was in Asia for a business fair and some personal matters during the time the report was required to be filed. Mr. Chi also stated that he is the only person in his company and that the annual report process was new to him. Mr. Chi concluded his letter by explaining that he had no intention of breaking the Commission’s rules.

- 3 On March 20, 2013, Commission Staff (Staff) filed a response opposing further mitigation of the \$600 penalty. Staff explained that it had already administratively mitigated the penalty by 50 percent, from \$1,200 to \$600, and that a company’s lack of knowledge of the annual reporting requirement did not merit further relief.

- 4 **Hearing.** Pursuant to RCW 34.05.482 and WAC 480-07-610, the Commission determined that a brief adjudicative proceeding (BAP) was appropriate for determining whether the penalty should be mitigated and what actions might be necessary to ensure that John Chi International Corp. complies with its regulatory obligations. On March 26, 2013, the Commission issued a Notice of Brief

Adjudicative Proceeding and set April 22, 2013, at 1:30 p.m. as the time for the parties to make oral statements concerning their positions.

5 **Payment.** On April 4, 2013, the Commission received a check from Mr. Chi in the amount of \$600, representing payment in full of the penalty assessment.

6 **Evidence.** At hearing, Mr. Chi explained that his company is new and he is still learning about how to function as a regulated entity. He operates three vehicles and understands the importance of maintaining and operating his fleet in accordance with the Commission's rules and safety standards. However, Mr. Chi explained that he was not initially aware of all the forms and filings required by the Commission as well as other state and federal regulatory agencies.

7 Mr. Chi did not dispute receiving the Commission's letter of November 15, 2012, which included the annual safety report form and regulatory fee reminder packet. Mr. Chi conceded that he did not realize it was important correspondence and overlooked his responsibility to submit the required paperwork and fees in a timely fashion. Mr. Chi pledged that this sort of late filing will not occur again; he is considering hiring an employee to supervise his company's future regulatory compliance filings.

8 Mr. Chi testified that seeking mitigation of this penalty assessment is not a matter of money, but an issue of reputation. Mr. Chi does not want his company to be thought of as disrespectful of the Commission's rules. He seeks to maintain good relations with the Commission and become known for obeying regulations, not late filings.

9 Staff continues to oppose further mitigation in this matter.

10 **Decision.** The Commission finds further mitigation appropriate in this case. Mr. Chi took responsibility for his company's late filing and sought to make amends by appearing in person at the Commission's headquarters. He testified credibly and sincerely about his intentions to comply with the Commission's rules and meet all future deadlines. The Commission looks favorably on Mr. Chi's presentation and his proposed solution of hiring additional help to insure against future violations.

11 The record in this case shows that Mr. Chi first made contact with Staff on January 17, 2013, and attempted to resolve the matter of his overdue annual safety report and regulatory fees. He paid \$75 by credit card, representing all outstanding regulatory fees due at that time. In a matter of days, the Commission received

Mr. Chi's completed annual report paperwork and another payment of \$1.50, representing interest due on his overdue regulatory fees.

- 12 Staff's Notice of Enforcement Action, dated January 7, 2013, offered late-filing companies who mailed their reports postmarked no later than January 18, 2013, a mitigated penalty of \$25 per day, as opposed to the \$100 per day authorized by law. Although Mr. Chi paid his regulatory fees on January 17, 2013, the record in this matter shows that the Commission did not receive Mr. Chi's completed report until January 23, 2013.
- 13 The Commission determines that Mr. Chi made contact with the Commission and paid his regulatory fees within the grace period identified in Staff's Notice of Enforcement Action. Even though his annual report did not reach the Commission until the following week, the Commission exercises its discretion to grant Mr. Chi the benefit of the mitigated \$25 per day rate of assessment.
- 14 The penalty assessed against John Chi International Corp. is recalculated at a rate of \$25 per day for the nine business days the company was late in paying its regulatory fees. This results in a revised penalty in the amount of \$225.

ORDER

THE COMMISSION ORDERS:

- 15 (1) The \$600 penalty assessed against John Chi International Corp. is further mitigated to \$225.
- 16 (2) The Commission shall promptly refund \$375 to John Chi International Corp.

DATED at Olympia, Washington, and effective April 24, 2013.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

ADAM E. TOREM
Administrative Law Judge

NOTICE TO PARTIES

This is an Initial Order. The action proposed in this Initial Order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order, and you would like the Order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within ten (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order any party may file a Petition to Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

RCW 80.01.060(3) provides that an Initial Order will become final without further Commission action if no party seeks administrative review of the Initial Order and if the Commission fails to exercise administrative review on its own motion.

One copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). An Original and **seven (7)** copies of any Petition or Answer must be filed by mail delivery to:

Attn: David W. Danner, Executive Director and Secretary
Washington Utilities and Transportation Commission
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