

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment)	DOCKET TE-141062
Against)	
)	ORDER 01
EXECUVAN RENTAL LLC)	
)	INITIAL ORDER GRANTING
in the amount of \$1,000)	MITIGATION TO \$200
.....)	

BACKGROUND

- 1 Washington law requires charter and excursion carriers to file annual reports by May 1 of each year. WAC 480-30-071. On November 23, 2013, the Washington Utilities and Transportation Commission (Commission) mailed a letter to all charter and excursion carriers explaining that it recently adopted a rule changing the annual report due date for those carriers from December 31 to May 1. Regulatory fees remain due on December 31. On February 28, 2014, the Commission mailed annual report forms to all charter and excursion carriers. The forms included a reminder that companies must file their annual reports by May 1, 2014, or face penalties of \$100 for each violation of Commission rules. In the case of continuing violations, each day’s continuance is a separate violation. RCW 80.04.405.
- 2 Execuvan Rental LLC (Execuvan or Company) did not file its annual report on May 1, 2014, and had not made that filing by May 15. On May 27, the Commission assessed a penalty of \$1,000 against Execuvan Rental, calculated as \$100 per business day from May 1 to May 15.
- 3 On May 20, 2014, Execuvan Rental filed an incomplete annual report. The Company filed its complete report and paid both its regulatory and late payment fees on June 9.
- 4 On June 12, 2014, Execuvan Rental responded to the Commission’s penalty assessment admitting the violations and requesting mitigation of the penalty based on the written information provided. The Company explained its filing was late due to a change in business structure; its former partnership was dissolved, and the vacating partner failed to submit the Company’s change of address to the Commission.

Accordingly, the Company did not receive the annual report form mailed on February 28.

5 On June 26, 2014, Commission Staff (Staff) filed a response recommending a penalty reduction to \$200 because the Company timely paid its regulatory fee and has no prior violations of WAC 480-30-071. Staff also noted that the Commission recently adopted new rules requiring annual reports for charters and excursions to be filed by May 1, while the regulatory fees remain due on December 31.

6 Subsequent to filing its response on June 26, 2014, Staff discovered that the Company requested a hearing in addition to seeking mitigation based on the written information provided. Accordingly, on July 28, 2014, the Commission issued a Notice of Brief Adjudicative Proceeding and set August 26, 2014, at 9:30 a.m. as the time for the parties to make oral statements concerning their positions. The Company failed to appear at the hearing.

7 The Commission will therefore consider the written statement filed on June 12, 2014, as the basis for the Company's mitigation request.

DISCUSSION

8 WAC 480-30-071 requires charter and excursion carriers to file annual reports by May 1 of each year. Companies are responsible for being aware of applicable Commission rules and complying with their legal obligations. Accordingly, the Company should have been aware of the need to file an annual report by May 1, and should have ensured its current address was on file with the Commission.

9 The Commission nevertheless agrees with Staff's recommendation. The Commission may consider a number of factors when entertaining a request for mitigation, including a company's history of compliance, whether the violation was promptly corrected, and the likelihood the violation will recur.¹ Here, the Company has since filed its report and paid its regulatory and late payment fees. Although this is

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

Execuvan Rental's first violation of WAC 480-30-071, the Company's owner, John Chi, doing business as John Chi International Co., received and paid a mitigated penalty in 2013. In light of the previous violation, the Company should have been aware of its need to file an annual report. We have, however, granted leniency to similarly situated companies with previous violations due to the rule change that modified the annual report filing procedures for charter and excursion carriers in 2014. The Commission will therefore exercise its discretion to reduce the penalty to \$200.

ORDER

THE COMMISSION ORDERS:

- 10* (1) The request of Execuvan Rental LLC for mitigation of the \$1,000 penalty is GRANTED in part, and the penalty is reduced to \$200.
- 11* (2) The penalty is due and payable no later than September 16, 2014.
- 12* The Secretary has been delegated authority to enter this order on behalf of the Commissioners under WAC 480-07-904(1)(h).

DATED at Olympia, Washington, and effective September 2, 2014.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

RAYNE PEARSON
Administrative Law Judge

NOTICE TO THE 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 (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 **one** copy of any Petition or Answer must be filed by mail delivery to:

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Washington Utilities and Transportation Commission
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