

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET TE-171115
LIFESTYLE LLC d/b/a/ LIFESTYLE SHUTTLES & TOURS AND LIFESTYLE VALET	ORDER 01
in the amount of \$1,300	GRANTING MITIGATION TO \$600

BACKGROUND

- 1 On December 1, 2017, the Washington Utilities and Transportation Commission (Commission) assessed a \$1,300 penalty (Penalty Assessment) against Lifestyle LLC d/b/a Lifestyle Shuttles & Tours and Lifestyle Valet (Lifestyle LLC or Company) for 13 violations of Chapter 480-30 Washington Administrative Code (WAC), which adopts by reference sections of Title 49 Code of Federal Regulations (C.F.R.).¹ The Penalty Assessment includes a \$1,300 penalty for 13 violations of 49 C.F.R. Part 391.45(b)(1) for using a driver not medically examined and certified.
- 2 On December 19, 2017, the Company responded to the Penalty Assessment, requesting mitigation of the penalty based on the written information provided. In its response, the Company admitted the violations, explained why the violations occurred, and described the procedures it put in place to ensure future compliance.
- 3 On December 27, 2017, Commission staff (Staff) filed a response recommending the Commission grant the Company's request for mitigation, in part. Staff recommends that the Commission reduce the penalty from \$1,300 to \$600 because the Company promptly corrected the violation and took steps to prevent future occurrences.

DISCUSSION AND DECISION

- 4 Washington law requires charter and excursion carriers to comply with federal safety requirements and undergo routine safety inspections. Violations discovered during safety

¹ WAC 480-30-221 adopts by reference sections of Title 49 C.F.R. Accordingly, Commission safety regulations with parallel federal rules are hereinafter referenced only by the applicable provision of 49 C.F.R.

inspections are subject to penalties of \$100 per violation.² In some cases, Commission requirements are so fundamental to safe operations that the Commission will issue penalties for first-time violations.³ Violations defined by federal law as “acute” or “critical” meet this standard.⁴

5 The Commission considers several factors when entertaining a request for mitigation, including whether the company introduces new information that may not have been considered in setting the assessed penalty amount, or explains other circumstances that convince the Commission that a lesser penalty will be equally or more effective in ensuring the company’s compliance.⁵

6 In its request for mitigation of the penalty, the Company explained why the violations occurred, and described the procedures it put in place to ensure future compliance.

7 Staff recommends that the Commission reduce the penalty from \$1,300 to \$600 because the Company promptly corrected the violations and took steps to prevent future occurrences.

8 We agree with Staff’s recommendation to mitigate the penalty to \$600. We recognize the Company’s swift efforts to correct the violations and to implement a system to prevent them from recurring. In addition, these are first-time violations. In light of these factors, we assess a \$600 penalty for three violations of 49 C.F.R. Part 391.45(b)(1).

FINDINGS AND CONCLUSIONS

9 (1) The Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, and practices of public service companies, including charter and excursion carriers, and has jurisdiction over the parties and subject matter of this proceeding.

² See RCW 81.04.405.

³ Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission ¶12, 15 (Jan. 7, 2013) (Enforcement Policy).

⁴ 49 C.F.R. § 385, Appendix B.

⁵ Enforcement Policy ¶19.

- 10 (2) Lifestyle LLC is a charter and excursion carrier subject to Commission regulation.
- 11 (3) Lifestyle LLC violated 49 C.F.R. 391.45(b)(1) when it allowed two drivers who were not medically examined and certified to drive on 13 occasions during the six months preceding the safety investigation.
- 12 (4) The Commission should penalize Lifestyle LLC \$600 for 13 violations of 49 C.F.R. 391.45(b)(1).

ORDER

THE COMMISSION ORDERS:

- 13 (1) Lifestyle LLC d/b/a Lifestyle Shuttles & Tours and Lifestyle Valet's request for mitigation of the \$1,300 penalty is GRANTED, in part, and the penalty is reduced to \$600.
- 14 (2) Lifestyle LLC d/b/a Lifestyle Shuttles & Tours and Lifestyle Valet must either pay the \$600 penalty or file jointly with Staff a proposed payment plan within 10 days of the effective date of this Order.
- 15 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 January 29, 2018.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

STEVEN V. KING
Executive Director and Secretary

NOTICE TO PARTIES: This is an order delegated to the Executive Secretary for decision. As authorized in WAC 480-07-904(3), you must file any request for Commission review of this order no later than 14 days after the date the decision is posted on the Commission's website.