

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**NOTICE OF PENALTIES INCURRED AND DUE  
FOR VIOLATIONS OF LAWS AND RULES**

**PENALTY ASSESSMENT: TN-180347  
PENALTY AMOUNT: \$100**

EAST COUNTY SENIOR CENTER  
PO Box 602  
Monroe, WA 98272

The Washington Utilities and Transportation Commission (Commission) believes that East County Senior Center (East County or Company) has committed one violation of Washington Administrative Code (WAC) 480-31-100, Equipment–Safety, which adopts Title 49 Code of Federal Regulations (CFR) Part 396 – Inspection, Repair, and Maintenance.

Revised Code of Washington (RCW) 81.04.405 allows penalties of one hundred dollars for each violation. In the case of an ongoing violation, every day’s continuance is considered a separate and distinct violation.

On April 10, 2018, Commission Motor Carrier Investigator Sandi Yeomans completed a routine safety investigation of East County and documented the following violation:

- **One violation of Title 49 CFR Part 396.3(b)(4) – Failing to keep a record of tests conducted on pushout windows, emergency doors, and emergency door marking lights on buses.** East County failed to maintain a record of tests conducted on pushout windows, emergency doors, and emergency door marking lights for its one commercial motor vehicle.

The Commission considered the following factors in determining the appropriate penalty for the violation:

1. **How serious or harmful the violation is to the public.** The violation noted is serious and potentially harmful to the public. Companies that fail to keep service records on critical safety equipment increase the potential for a failure to occur during an emergency. This could present serious safety risks to passengers.
2. **Whether the violation is intentional.** Considerations include:
  - Whether the company ignored Commission staff’s previous technical assistance; and
  - Whether there is clear evidence through documentation or other means that shows the company knew of and failed to correct the violation.

East County was initially granted operating authority as a private non-profit transportation provider in August 1991. In 1997, the company voluntarily cancelled its operating authority after contracting with Community Transit, the transit authority in

Snohomish County. East County reapplied for, and was granted, operating authority as a private non-profit transportation provider again in July 2000.

Since being granted operating authority in July 2000, Commission staff (Staff) conducted routine safety investigations of East County on July 15, 2004, March 16, 2007, and March 7, 2017. In the 2017 investigation, Staff documented and provided technical assistance for the same violation of Title 49 CFR Part 396.3(b)(4).

The Company knew, or should have known, about this requirement.

3. **Whether the Company self-reported the violation.** The Company did not self-report this violation.
4. **Whether the Company was cooperative and responsive.** East County was very cooperative and responsive throughout the investigation and expressed a desire to come into compliance with motor carrier safety regulations.
5. **Whether the Company promptly corrected the violations and remedied the impacts.** The Company made corrections throughout the investigation as they were identified by Staff.
6. **The number of violations.** Staff identified four violation types with a total of seven occurrences.
7. **The number of customers affected.** The Company traveled 14,088 miles in 2017. A significant number of customers were potentially affected by this safety violation.
8. **The likelihood of recurrence.** The Commission does not know if East County is likely to repeat this safety violation.
9. **The Company's past performance regarding compliance, violations, and penalties.** This is East County's fourth routine safety investigation since July 2004.

On July 29, 2013, the Commission penalized East County \$225 in Docket TN-130906 for failing to file its 2012 annual report or pay 2013 regulatory fees. On June 17, 2016, the Commission penalized the Company \$1,000 in Docket TN-160662 for failing to file its 2015 annual report or pay 2016 regulatory fees.

On March 16, 2017, the Commission penalized East County \$9,800 in Docket TN-170157 for violations of WAC 480-31-100, Equipment–Safety; and WAC 480-31-130, Operation of Motor Vehicles.

10. **The Company's existing compliance program.** Tracy Scott, program coordinator for East County, is responsible for the Company's safety compliance program.
11. **The size of the Company.** East County is a small company with four part-time drivers and one commercial motor vehicle. The Company reported \$436,908 in gross revenue in 2017.

The Commission's Enforcement Policy provides that some Commission requirements are so fundamental to safe operations that the Commission will issue mandatory penalties for each occurrence of a first-time violation.<sup>1</sup> The Commission generally will assess penalties per type of violation, rather than per occurrence, for first-time violations of those critical regulations that do not meet the requirements for mandatory penalties. The Commission will assess penalties for any equipment violation meeting the Federal Motor Carrier Safety Administration's "out-of-service" criteria and also for repeat violations, including each occurrence of a repeat violation.

The Commission has considered these factors and determined that it should penalize East County \$100 for a violation of WAC 480-31-100, Equipment–Safety, calculated as follows:

- One violation of Title 49 CFR Part 396.3(b)(4) – Failing to keep a record of tests conducted on pushout windows, emergency doors, and emergency door marking lights on buses. This is a repeat violation, and thus the Commission assesses a penalty of \$100 per occurrence, for a total of \$100.

This information, if proven at a hearing and not rebutted or explained, is sufficient to support the penalty assessment.

Your penalty is due and payable now. If you believe any or all of the violations did not occur, you may deny committing the violation(s) and contest the penalty assessment through evidence presented at a hearing or in writing. The Commission will grant a request for hearing only if material issues of law or fact concerning the violation(s) require consideration of evidence and resolution in a hearing. Any contest of the penalty assessment must include a written statement of the reasons supporting that contest. Failure to provide such a statement will result in denial of the contest.

If there is a reason for any or all of the violations that you believe should excuse you from the penalty, you may ask for mitigation (reduction) of this penalty through evidence presented at a hearing or in writing. The Commission will grant a request for hearing only if material issues of law or fact require consideration of evidence and resolution in a hearing. Any request for mitigation must include a written statement of the reasons supporting that request. Failure to provide such a statement will result in denial of the request. See RCW 81.04.405.

If you properly present your request for a hearing and the Commission grants that request, the Commission will review the evidence supporting your dispute of the violation(s) or application for mitigation in a Brief Adjudicative Proceeding before an administrative law judge. The administrative law judge will consider the evidence and will notify you of his or her decision.

**You must act within 15 days after receiving this notice** to do one of the following:

- Pay the amount due.
- Contest the occurrence of the violations.
- Request mitigation to contest the amount of the penalty.

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<sup>1</sup> Docket A-120061 – Enforcement Policy of the Washington Utilities & Transportation Commission – Section V.

Please indicate your selection on the enclosed form and submit it electronically through the Commission's web portal **within FIFTEEN (15) days** after you receive this notice. If you are unable to use the web portal, you may submit it via email to [records@utc.wa.gov](mailto:records@utc.wa.gov). If you are unable to submit the form electronically, you may send a paper copy to the Washington Utilities and Transportation Commission, PO Box 47250, Olympia, Washington 98504-7250.

**If you do not act within 15 days**, the Commission may take additional enforcement action, including but not necessarily limited to suspending or revoking your certificate to provide regulated service, assessing additional penalties, or referring this matter to the Office of the Attorney General for collection.

DATED at Olympia, Washington, and effective April 30, 2018.

RAYNE PEARSON  
Director, Administrative Law Division

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
PENALTY ASSESSMENT TN-180347

**PLEASE NOTE:** You must complete and sign this document, and send it to the Commission within 15 days after you receive the penalty assessment. Use additional paper if needed. I have read and understand RCW 9A.72.020 (printed below), which states that making false statements under oath is a class B felony. I am over the age of 18, am competent to testify to the matters set forth below and I have personal knowledge of those matters. I hereby make, under oath, the following statements.

1. **Payment of penalty.** I admit that the violations occurred and enclose \$100 in payment of the penalty.

2. **Contest the violations.** I believe that some or all of the alleged violations did not occur for the reasons I describe below (**if you do not include reasons supporting your contest here, your request will be denied**):

a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision

OR  b) I ask for a Commission decision based solely on the information I provide above.

3. **Application for mitigation.** I admit the violations, but I believe that the penalty should be reduced for the reasons set out below (**if you do not include reasons supporting your application here, your request will be denied**):

a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision

OR  b) I ask for a Commission decision based solely on the information I provide above.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing, including information I have presented on any attachments, is true and correct.

Dated: \_\_\_\_\_ [month/day/year], at \_\_\_\_\_ [city, state]

\_\_\_\_\_  
Name of Respondent (Company) – please print

\_\_\_\_\_  
Signature of Applicant

RCW 9A.72.020:

“Perjury in the first degree. (1) A person is guilty of perjury in the first degree if in any official proceeding he makes a materially false statement which he knows to be false under an oath required or authorized by law. (2) Knowledge of the materiality of the statement is not an element of this crime, and the actor’s mistaken belief that his statement was not material is not a defense to a prosecution under this section. (3) Perjury in the first degree is a class B felony.”