

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

**PENALTY ASSESSMENT: TC-190200
PENALTY AMOUNT: \$100**

Shuttle Express, Inc.
d/b/a Shuttle Express
800 SW 16th Street
Renton, WA 98057

The Washington Utilities and Transportation Commission (Commission) believes that Shuttle Express, Inc., d/b/a Shuttle Express (Shuttle Express or Company) violated Washington Administrative Code (WAC) 480-30-221, Vehicle and Driver Safety Requirements, 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 \$100 for each violation. In the case of an ongoing violation, every day's continuance is considered a separate and distinct violation.

On March 8, 2019, Commission Motor Carrier Investigator Edward Steiner completed a roadside inspection of Shuttle Express during a destination check at the Seattle-Tacoma International Airport holding lot and documented the following violation:

- **One violation of Title 49 CFR 396.3(a)(1) – Unsecured mounting of electrical connector rubbing against steering linkage.** Staff discovered one commercial motor vehicle with an unsecured electrical connector rubbing against the steering linkage, and placed this vehicle out-of-service.¹

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

1. **How serious or harmful the violations is to the public.** The violation noted is serious and potentially harmful to the public. A company that operates a commercial motor vehicle in need of repair puts the traveling public at risk. A commercial motor vehicle operated in a condition likely to cause an accident or a breakdown presents serious safety concerns.
2. **Whether the violations were intentional.** Considerations include:
 - Whether the company ignored Commission staff's previous technical assistance; and

¹ Equipment Identification Number 551555.

- Whether there is clear evidence through documentation or other means that shows the company knew of and failed to correct the violations.

Shuttle Express began its operations in 1970, and has had numerous matters in front of the Commission. Commission staff has conducted several routine safety investigations of the Company, with the most recent safety investigation completed in August 2015. The Company knew, or should have known, about these requirements; however, there is no evidence that Shuttle Express ignored Commission staff's previous technical assistance.

3. **Whether the company self-reported the violation.** The Company did not self-report the violation.
4. **Whether the company was cooperative and responsive.** Shuttle Express was cooperative throughout the entire inspection.
5. **Whether the company promptly corrected the violation and remedied the impacts.** The Company immediately corrected the violation at the inspection location.
6. **The number of violations.** Commission staff identified two violation types with a total of two individual occurrences.
7. **The number of customers affected.** Shuttle Express traveled 2,403,039 miles and transported 189,452 passengers in 2017. A significant number of customers, as well as members of the traveling public, were potentially affected by this safety violation.
8. **The likelihood of recurrence.** The Commission does not know if Shuttle Express is likely to repeat these safety violations; however, the Company was cooperative with staff and made corrections during the inspection process.
9. **The company's past performance regarding compliance, violations, and penalties.** On August 15, 2016, the Commission penalized Shuttle Express \$400 in Docket TC-160991 for using a driver with an invalid commercial driver's license.

On July 5, 2018, the Commission penalized the Company \$100 in Docket TC-180510 for using a vehicle that was unable to maintain air pressure during an air loss test, and placed the vehicle out-of-service.
10. **The company's existing compliance program.** Kere Greene, safety director for Shuttle Express, is responsible for the Company's safety compliance program.
11. **The size of the company.** Shuttle Express operated 105 vehicles, employed 87 drivers, and reported gross revenue of \$6,139,397 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.² 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 of critical regulations, including each occurrence of a repeat violation.

The Commission has considered these factors and determined that it should penalize Shuttle Express \$100 for one violation of WAC 480-30-221, Vehicle and Driver Safety Requirements, which adopts Title 49 CFR 396, calculated as follows:

- One violation of Title 49 CFR 396.3(a)(1) – Unsecured mounting of electrical connector rubbing against steering linkage. The Commission assesses a penalty of \$100 for this out-of-service violation.

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 the violation did not occur, you may deny committing the violation and contest the penalty through evidence presented at a hearing or in writing. Or, if there is a reason for the violation that you believe should excuse you from the penalty, you may ask for mitigation (reduction) of the 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 to contest the violation or for mitigation of the penalty 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 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 violation.
- Request mitigation to contest the amount of the penalty.

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. 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.

² Docket A-120061 – Enforcement Policy of the Washington Utilities & Transportation Commission – Section V.

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 29, 2019.

/s/ Rayne Pearson
RAYNE PEARSON
Director, Administrative Law Division

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TC-190200

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 violation occurred and enclose \$100 in payment of the penalty.

2. **Contest the violation.** I believe that the alleged violation 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 violation, 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.”