

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

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

PENALTY ASSESSMENT: TG-190468  
PENALTY AMOUNT: \$200

Karin Evans  
d/b/a A & B Services  
PO Box 111  
Hunters, WA 99137

The Washington Utilities and Transportation Commission (Commission) believes that Karin Evans d/b/a A & B Services (A & B Services or Company) violated Washington Administrative Code (WAC) 480-70-181, Public Liability and Property Damage Insurance; and WAC 480-70-201, Vehicle and Driver Safety Requirements, which adopts by reference Title 49 Code of Federal Regulations (CFR) Part 396.

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 May 22, 2019, Commission Motor Carrier Investigator Sandra Yeomans completed a routine safety investigation of A & B Services and documented the following violation:

- **One violation of WAC 480-70-181 – Failing to Keep Minimum Levels of Financial Responsibility for Motor Carriers.** The Company's vehicle did not have auto liability coverage from May 3 to May 8, 2019. A & B Services operated without insurance on May 3, 2019.
- **One violations of CFR 396.3(b) – Failing to keep minimum records of inspections and vehicle maintenance.** A & B Services failed to keep maintenance records for the Company's vehicle.

The Commission considered the following factors in determining the appropriate penalties for these violations:

1. **How serious or harmful the violations are to the public.** The violations noted are serious and potentially harmful to the public. Solid waste companies that fail to maintain auto liability coverage and fail to maintain vehicle maintenance records put the traveling public at risk. These violations present serious safety concerns.
2. **Whether the violations were intentional.** Considerations include:
  - Whether the Company ignored Commission staff's (Staff) 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.

A & B Services began solid waste operations in October 2009 as Alton L Montgomery, d/b/a A & B Services. On December 20, 2017, the Commission approved an application to transfer the ownership of A & B Services to Karin Evans. A & B Services is a garbage and refuse company operating in Hunters, Washington. In the Company's October 17, 2017, application, A & B Services acknowledged its responsibility to comply with applicable safety laws and regulations. A & B Services knew or should have known about these requirements.

3. **Whether the Company self-reported the violations.** A & B Services did not self-report these violations.
4. **Whether the Company was cooperative and responsive.** A & B Services was cooperative throughout the investigation and expressed a desire to come into compliance with the safety regulations.
5. **Whether the Company promptly corrected the violations and remedied the impacts.** The Company submitted a 15-day letter that explains the corrective action with respect to each violation cited.
6. **The number of violations.** Staff identified seven violation types with a total of seven individual occurrences.
7. **The number of customers affected.** In 2018, A & B Services traveled 8,060 miles. The Company's customers, as well as the traveling public, were potentially affected by these safety violations.
8. **The likelihood of recurrence.** The Commission does not know if A & B Services is likely to repeat these safety violations. However, A & B Services was cooperative with Staff and willingly accepted technical assistance.
9. **The Company's past performance regarding compliance, violations, and penalties.** This is the Company's first safety investigation.
10. **The Company's existing compliance program.** Ms. Karin Evans, Company owner, is responsible for the Company's safety compliance program.
11. **The size of the Company.** A & B Services currently operates one motor vehicle with one driver. The Company reported \$8,715 in gross revenue for 2018.

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 of critical regulations, including each occurrence of a repeat violation.

The Commission has considered these factors and determined that it should penalize A & B Services \$200 for violations of WAC 480-70-181, Public Liability and Property Damage Insurance, and (WAC) 480-70-201, Vehicle and Driver Safety Requirements, calculated as follows:

- **One violation of WAC 480-70-181 – Public Liability and Property Damage Insurance.** The Commission assesses a penalty of \$100 for each occurrence of this acute violation, for a total of \$100.
- **One violation of CFR 396.3(b) – Failing to keep minimum records of inspections and vehicle maintenance.** The Commission assesses a penalty of \$100 for this first time occurrence of this critical type violation, 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 either or both of the violations did not occur, you may deny committing the violation(s) and contest the penalty through evidence presented at a hearing or in writing. Alternatively, if there is a reason for either or both of the violations 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(s) 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(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 June 20, 2019.

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

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
PENALTY ASSESSMENT TG-190468

**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 \$200 in payment of the penalty.

2. **Contest the violations.** I believe that either or both 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