

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

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

**PENALTY ASSESSMENT: TV-190684  
PENALTY AMOUNT: \$100**

Pom-Arleau Transfer & Storage Corp.  
5518 Enterprise Drive  
East Wenatchee, WA 98802

The Washington Utilities and Transportation Commission (Commission) believes that Pom-Arleau Transfer & Storage Corp., (Pom-Arleau Transfer or Company) violated Washington Administrative Code (WAC) 480-15-560, Equipment Safety Requirements, which adopts Title 49 Code of Federal Regulations (CFR) Part 393 – Parts and Accessories Necessary for Safe Operation; and Title 49 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 July 29, 2019, Commission Motor Carrier Investigator Wayne Gilbert completed a routine safety investigation of Pom-Arleau Transfer and documented the following violation:

- **One violation of Title 49 CFR § 396.3(a)(1) – Brake system pressure loss.** Commission staff (Staff) discovered one commercial motor vehicle that failed the air loss rate test due to an air leak in its right side axle two brake chamber. This vehicle was placed out-of-service.<sup>1</sup>

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

1. **How serious or harmful the violations are to the public.** The violation noted is serious and potentially harmful to the public. Household goods moving companies that use commercial motor vehicles in need of repairs put their customers' belongings and the traveling public at risk. These violations present serious safety concerns.
2. **Whether the violations were intentional.** Considerations include:
  - Whether the Company ignored 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.

Pom-Arleau Transfer began operating in the state of Washington in 1929, with the earliest records of Pom-Arleau Transfer's household goods moving authority dating back to 1935.

---

<sup>1</sup> Company equipment identification number 6.

On November 29, 2005, Staff completed a routine safety investigation of Pom-Arleau Transfer, which resulted in a proposed “Satisfactory” safety rating. During the review, Staff discovered violations of Title 49 CFR 396.3(a)(1), and placed two vehicles out-of-service. All violations identified during the 2005 safety investigation were discussed with Mike Marsh, Operations Manager of Pom-Arleau Transfer.

The Company should have known about these requirements.

3. **Whether the Company self-reported the violations.** Pom-Arleau Transfer did not self-report these violations.
4. **Whether the Company was cooperative and responsive.** Pom-Arleau Transfer 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.** Staff does not know if Pom-Arleau Transfer has corrected these violations.
6. **The number of violations.** Staff identified nine violation types with a total of 19 individual occurrences.
7. **The number of customers affected.** In 2018, Pom-Arleau Transfer traveled 129,074 miles. This safety violation presented a significant public safety risk.
8. **The likelihood of recurrence.** The Commission does not know if Pom-Arleau Transfer is likely to repeat these safety violations.
9. **The Company’s past performance regarding compliance, violations, and penalties.** Pom-Arleau Transfer has no history of previous penalties for safety violations.
10. **The Company’s existing compliance program.** Michael Marsh, Safety Director, is responsible for Pom-Arleau Transfer’s safety compliance program.
11. **The size of the Company.** The Company currently operates three straight trucks, one truck tractor, and two trailers with three drivers. The Company reported \$860,761 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>2</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.

---

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

The Commission has considered these factors and determined that it should penalize Pom-Arleau Transfer \$100 for one violation of WAC 480-15-560, Equipment Safety Requirements, which adopts Title 49 CFR Part 396, calculated as follows:

- One violation of Title 49 CFR § 396.3(a)(1) – Brake system pressure loss. 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. Alternatively, 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.
- Admit the violation but request mitigation of the penalty amount.

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.

**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 Lacey, Washington, and effective August 27, 2019.

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

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
PENALTY ASSESSMENT TV-190684

**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 violation(s).** I believe that the alleged violation(s) 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