

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: TC-190879

PENALTY AMOUNT: \$1,300

Rocket Transportation LLC,
d/b/a Rocket Transportation
P.O. Box 267
Chimacum, WA 98325

The Washington Utilities and Transportation Commission (Commission) believes Rocket Transportation LLC, d/b/a Rocket Transportation (Rocket Transportation or Company), violated Washington Administrative Code (WAC) 480-30-221, Vehicle and Driver Safety Requirements, which adopts Title 49 Code of Federal Regulations (49 CFR) Part 391 – Qualifications of Drivers, and 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 October 22, 2019, Commission Motor Carrier Investigator Sandra Yeomans completed a routine safety investigation of Rocket Transportation and documented the following violations:

- **Eleven violations of 49 CFR § 391.45(a) – Using a driver not medically examined and certified.** Rocket Transportation allowed driver Christopher Stone to drive without being medically certified on 11 occasions between March 10 and September 10, 2019.
- **Two violations of 49 CFR § 391.51(b)(2) – Failing to maintain inquiries into driver's driving record in driver's qualification file.** The Company failed to maintain driving record inquiries in the qualification files of drivers Pauline Cheng and Steve Fiamengo.
- **Three violations of 49 CFR § 396.17(a) – Using a commercial motor vehicle not periodically inspected.** Rocket Transportation failed to have an annual inspection performed on three commercial motor vehicles.

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. Companies that: (1) use drivers that are not medically examined and certified, (2) fail to maintain inquiries into drivers' driving records, and (3) use commercial motor vehicles that have not been inspected 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.

On March 31, 2015, the Commission received the Company's application for a name change of existing auto transportation authority. In the application, Kathy Roman, managing partner of Rocket Transportation, acknowledged the Company's responsibility to understand and comply with applicable motor carrier safety regulations.

On October 12, 2017, Commission Motor Carrier Investigator Sandra Yeomans completed a routine safety investigation of Rocket Transportation and documented violations of 49 CFR § 391.45(a). Technical assistance was also provided to the Company during the investigation.

The Company knew or should have known about these requirements.

3. **Whether the Company self-reported the violations.** Rocket Transportation did not self-report these violations.
4. **Whether the Company was cooperative and responsive.** The Company was cooperative and made corrections throughout the safety investigation.
5. **Whether the Company promptly corrected the violations and remedied the impacts.** Rocket Transportation corrected the violations of 49 CFR § 391.45(a), 49 CFR § 391.51(b)(2), and 49 CFR § 396.17(a) during the safety investigation.
6. **The number of violations.** Staff identified nine violation types with a total of 34 individual occurrences.
7. **The number of customers affected.** The Company employs 17 drivers and operates 10 commercial motor vehicles. Rocket Transportation traveled 528,087 miles in 2018. These safety violations presented a significant public safety risk.
8. **The likelihood of recurrence.** The Company committed repeat violations despite receiving past technical assistance. Nevertheless, the Company demonstrated a significant commitment to prioritize safe operations going forward. As such, Staff believes the violations are not likely to reoccur.
9. **The Company's past performance regarding compliance, violations, and penalties.** On May 22, 2014, Rocket Transportation was penalized \$1,000 in docket TC-141037 for failing to file an annual report and pay regulatory fees by May 1, 2014. On July 17, 2014, the Commission reduced the penalty to \$200. The Company paid the reduced penalty in full.

On May 27, 2014, the Company was penalized \$1,000 in docket TE-141076 for failing to file an annual report and pay regulatory fees by May 1, 2014. On July 17, 2014, the Commission mitigated the penalty to \$200. The Company paid the reduced penalty in full.

On May 22, 2015, Rocket Transportation was penalized \$1,000 in docket TC-150980 for failing to file a complete annual report and pay regulatory fees by May 1, 2015. The Company paid the penalty in full.

On October 18, 2017, the Company was penalized \$7,000 in docket TC-171022 for violations of WAC 480-30-221 discovered during a routine safety investigation. On November 22, 2017, the Commission reduced the penalty to \$3,500, and suspended a \$1,750 portion of the penalty subject to conditions. Rocket Transportation paid the \$1,750 portion of the penalty that was not suspended in full.

10. **The Company's existing compliance program.** Kathy Roman is responsible for the Company's safety compliance program.
11. **The size of the Company.** Rocket Transportation currently operates 10 commercial motor vehicles and employs 17 drivers. The Company reported \$889,500 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.¹ 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 Rocket Transportation \$1,300, calculated as follows:

- Eleven violations of 49 CFR § 391.45(a) – Using a driver not medically examined and certified. The Commission assesses a penalty of \$100 for each occurrence of this repeat violation, for a total of \$1,100.
- Two violations of 49 CFR § 391.51(b)(2) – Failing to maintain inquiries into driver's driving record in driver's qualification file. The Commission assesses a "per category" penalty of \$100 for this first-time violation.

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

- Three violations of 49 CFR § 396.17(a) – Using a commercial motor vehicle not periodically inspected. The Commission assesses a “per category” penalty of \$100 for this first-time 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 any or all 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 any or all 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 violation(s).
- Admit the violations 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 October 28, 2019.

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

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TC-190879

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 \$1,300 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