

Service Date: May 23, 2023

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: TV-230180

PENALTY AMOUNT: \$10,600

Max Kastl
Kastl Express LLC
2601 N. Commercial Ave #1
Pasco, WA 99301

The Washington Utilities and Transportation Commission (Commission) believes Kastl Express LLC, (Kastl Express or Company) violated Washington Administrative Code (WAC) 480-15-630, Estimates; WAC 480-15-710, Bill of lading; and Tariff 15-C, Item 85-Estimates, and Item 95-Bills of lading.

Revised Code of Washington (RCW) 81.04.405 allows penalties of \$100 for each violation. Each and every such violation shall be a separate and distinct offense and in the case of an ongoing violation, every day's continuance is considered a separate and distinct violation.

On March 10, 2023, Commission Compliance Investigator Sharmila Prabakaran completed a follow-up investigation into the business practices of Kastl Express. In the follow-up investigation staff reviewed 43 household goods move records and documented the following repeat violations:

- **Forty-Three Violations of WAC 480-15-630 and Tariff 15-C, Item 85 (1)** – Failure to provide Estimates. The Company did not provide estimates to any of the 43 customers.
- **Forty-Three Violations of WAC 480-15-620 and Tariff 15-C, Item 85 (3)(c)** – Failure to provide customers with a copy of the Commission publication *Consumer Guide to Moving in Washington State* (Consumer Guide). Kastl Express did not complete written estimates; therefore, there is no record that any of the 43 customers were provided with a copy of the Consumer Guide.
- **Twenty Violations of WAC 480-15-710 and Tariff 15, Item 95 (1)** – Failure to provide Bills of Lading. The Company did not provide bills of lading to 20 customers.

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 committed by Kastl Express illustrates how the Company disregarded WAC rules and Tariff 15-C. Tariff 15-C is very specific regarding rules by which household goods carriers must abide, such as accurately completing estimates and bills of lading, and providing a copy of the Consumer Guide to each customer. The requirements are in place to protect consumers. Commission staff (Staff) believes the violations identified in each of the 43 household goods moves reviewed in this investigation are serious and harmful to consumers.

2. **Whether the violations were intentional.** Staff believes the violations are intentional. As a result of a consumer complaint filed against the Company in June 2021, Staff recorded informal violations and provided detailed technical assistance regarding the requirement to provide estimates and bills of lading, and a copy of the Consumer Guide to consumers. The Company has not corrected its business practices.

On August 7, 2019, Max Kastl attended household goods training provided by Staff and signed a training verification form acknowledging completion of consumer protection rules and tariff training and safety regulation training. It is the household goods carrier owner's responsibility to ensure that its employees conduct its operations in compliance with Commission rules.

On September 26, 2019, the Commission received the Company's application for household goods moving authority. In the application, Max Kastl, owner of Kastl Express, signed the Declaration of Applicant acknowledging the Company's employees were sufficiently trained to comply with commission rules regarding estimates, bills of lading, rates, terms, and conditions of household goods moves.

3. **Whether the Company self-reported the violations.** Kastl Express did not self-report these violations.
4. **Whether the Company was cooperative and responsive.** The Company was cooperative throughout the compliance investigation and expressed a desire to come into compliance.
5. **Whether the Company promptly corrected the violations and remedied the impacts.** Kastl Express did not correct the violations.
6. **The number of violations.** Staff identified 106 violations that warrant penalties in accordance with the Commission's Enforcement Policy.
7. **The number of customers affected.** Staff reviewed Company records for 43 customer moves for the period of July 01, 2022, through August 31, 2022. . None of the 43 customers received an estimate or copy of the Consumer Guide, and 20 customers did not receive a bill of lading. Because every customer in this small sampling was affected, Staff believes it is reasonable to assume that every customer of the Company has also been affected by the same violations.
8. **The likelihood of recurrence.** Staff previously provided technical assistance with specific remedies to help the Company improve and comply with household goods rules and Tariff 15-C. The Company did not follow the technical assistance provided and continues to have the same violations. Staff believes it is likely that without a penalty the same or similar violations will continue to occur.
9. **The Company's past performance regarding compliance, violations, and penalties.**
 - a) Consumer Complaint CAS-28568- J6W3C9. Staff recorded informal violations for failing to provide estimates, bills of lading, and the consumer guide to customers, and provided detailed technical assistance on how to make corrections.

- b) On December 16, 2021, the Commission issued a Notice of Intent to Cancel the Company's household goods carrier permit in Docket TV-210939, after Staff's safety investigation of Kastl Express resulted in a proposed conditional safety rating.
- c) On December 28, 2021, the Company was penalized \$7,700 in Docket TV-210940 for safety violations of WAC 480-15-555, WAC 480-15-560, and WAC 480-15-570.
- d) On January 25, 2022, the Commission entered Order 01, which consolidated Dockets TV-210939 and TV-210940; approved the Company's safety management plan; extended the Company's provisional period; mitigated the penalty to \$3,850; and suspended a \$2,000 portion of the reduced penalty for a period of two years, subject to conditions.

10. **The Company's existing compliance program.** Staff is unaware of a compliance plan.

11. **The size of the Company.** Kastl Express reported operating revenue of \$112,462.05 for the 2021 reporting period.

The Commission has considered these factors and determined that it should penalize Kastl Express \$10,600 (Penalty Assessment), calculated as follows:

- \$4,300 for 43 violations of WAC 480-15-630 and Tariff 15-C, Item 85 – Failure to provide completed estimates to customers.
- \$4,300 for 43 violations of WAC 480-15-620 and Tariff 15-C, Item 85 (3)(c) – Failure to provide customers with a copy of the commission publication *Consumer Guide to Moving in Washington State*.
- \$2,000 for 20 violations of WAC 480-15-710 and Tariff 15-C, Item 95 – Failure to provide bills of lading to customers.

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 a 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 their 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 at <https://efiling.utc.wa.gov/Form>¹ **within FIFTEEN (15) days** after you receive this Penalty Assessment. 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 wish to make a payment online, please use this link: [Make a Payment Now \(wa.gov\)](#)²

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 May 23, 2023.

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

¹ <https://efiling.utc.wa.gov/Form>.

² <https://www.utc.wa.gov/documents-and-proceedings/online-payments/make-payment-now>

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TV-230180

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.
 Enclose \$10,600 in payment of the penalty.
OR Attest that I have paid the penalty in full through the Commission’s payment portal.

- 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 or she makes a

materially false statement which he or she 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 or her 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.