

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

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

**PENALTY ASSESSMENT: TE-230344  
PENALTY AMOUNT: \$500**

Eastern Washington Tours & Charters, LLC,  
d/b/a Eastern Washington Transportation  
750 Swift Blvd., #14  
Richland, WA 99352

The Washington Utilities and Transportation Commission (Commission) believes Eastern Washington Tours & Charters, LLC, d/b/a Eastern Washington Transportation (EWT or Company) violated Washington Administrative Code (WAC) 480-30-221, Vehicle and Driver Safety Requirements, which adopts Title 49 Code of Federal Regulations (49 C.F.R.) Part 382 – Controlled Substance and Alcohol Use and Testing.

Revised Code of Washington (RCW) 81.04.530 allows penalties of \$500 for each motor vehicle driver not in compliance with the motor vehicle driver testing requirements.

On May 8, 2023, Commission Motor Carrier Investigator Sandra Yeomans completed a routine safety investigation of EWT and documented the following violation:

- **One violation of 49 C.F.R. § 382.301(a) – Using a driver before the motor carrier has received a negative pre-employment controlled substance test result.** EWT allowed driver John Hullette to operate a commercial motor vehicle (CMV) before the Company received a negative pre-employment controlled substance test result.

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

1. **How serious or harmful the violation is to the public.** The violation noted is serious and potentially harmful to the public. Passenger transportation companies that allow drivers to operate CMVs prior to receiving negative pre-employment controlled substance test results put their customers and the traveling public at risk. This violation presents a serious safety concern.
2. **Whether the violation was 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 November 3, 2021, the Commission received the Company's application for charter and excursion authority. In the application, Randy Ammerman, safety coordinator of

EWT, acknowledged the Company's responsibility to understand and comply with controlled substance testing.

On December 1, 2021, Staff provided new entrant carrier safety regulation training to Thomas Ammerman, owner of EWT, which included technical assistance pertaining to pre-employment controlled substance testing. The Company knew or should have known about this requirement.

3. **Whether the Company self-reported the violation.** EWT did not self-report this violation.
4. **Whether the Company was cooperative and responsive.** The Company was cooperative and made corrections to violations identified during the safety investigation.
5. **Whether the Company promptly corrected the violation and remedied the impacts.** The Company corrected the violation of 49 C.F.R. § 382.301(a) by receiving a negative pre-employment controlled substance test result for John Hulette on January 13, 2023.
6. **The number of violations.** Staff identified 13 violation types with a total of 32 individual occurrences during the routine safety investigation of EWT. Of those violations, Staff identified one violation type with one individual occurrence that warrants a penalty in accordance with the Commission's Enforcement Policy.
7. **The number of customers affected.** EWT reported traveling 15,000 miles in 2022. This violation presented a public safety risk.
8. **The likelihood of recurrence.** Staff provided technical assistance with specific remedies to help the Company assess how well its safety management controls support safe operations and how to begin improving its safety performance. The Company was cooperative with Staff and made corrections during the safety investigation. In light of these factors, Staff believes the likelihood of recurrence is low.
9. **The Company's past performance regarding compliance, violations, and penalties.** This is the Company's first routine safety investigation. EWT has no history of violations or penalties with the Commission.
10. **The Company's existing compliance program.** Thomas Ammerman is responsible for the Company's safety compliance program.
11. **The size of the Company.** The Company employs one full-time and four part-time drivers and operates two CMVs. The Company reported \$316,000 in gross revenue in 2022.

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 by violation category, 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 EWT \$500 (Penalty Assessment), calculated as follows:

- One violation of 49 C.F.R. § 382.301(a) – Using a driver before the motor carrier has received a negative pre-employment controlled substance test result. The Commission assesses a penalty of \$500 for this 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 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.
- 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 at <https://efiling.utc.wa.gov/Form> **within FIFTEEN (15) days** after you receive this Penalty Assessment.<sup>2</sup> If you are unable to use the web portal, you may submit it

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

<sup>2</sup> <https://efiling.utc.wa.gov/Form>.

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 \(wa.gov\)](#).<sup>3</sup>

**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 15, 2023.

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

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<sup>3</sup> <https://www.utc.wa.gov/documents-and-proceedings/online-payments/make-payment-now>

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**  
**PENALTY ASSESSMENT TE-230344**

**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.  
 Enclose \$500 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 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 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.