

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

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

PENALTY ASSESSMENT: TH-230410  
PENALTY AMOUNT: \$500

Professional Transportation, Inc.  
3700 E Morgan Ave.  
Evansville, IN 47715

The Washington Utilities and Transportation Commission (Commission) believes Professional Transportation, Inc., (PTI or Company) violated Washington Administrative Code (WAC) 480-62-278, Contract Crew Transportation Vehicle and Driver Safety Requirements, which adopts Title 49 Code of Federal Regulations (49 C.F.R.) Part 395 – Hours of Service of Drivers.

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 25, 2023, Commission Motor Carrier Investigator Jason Sharp completed a focused safety investigation of PTI and documented the following violations:

- **One violation of 49 C.F.R. § 395.5(a)(1) – Requiring or permitting a passenger-carrying commercial motor vehicle (CMV) driver to drive more than 10 hours.** PTI allowed Maarlon Johnson to drive a total of 11 hours and 45 minutes on May 3, 2023.
- **Four violations of 49 C.F.R. § 395.8(a)(1) – Failing to require driver to prepare a record of duty status using the appropriate method.** The Company failed to require Maarlon Johnson to create a record of duty status after exceeding the short-haul exceptions on four occasions between April 27 and May 3, 2023.

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. Passenger transportation companies that fail to maintain records of duty status and allow drivers to drive more than 10 hours put their customers and the traveling public at risk. These violations present significant 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 November 20, 2012, the Commission received the Company's application for transfer of CUSA CSS, LLC's charter and excursion authority. In the application, Bobby Vincent, Safety Director of Professional Transportation, acknowledged the Company's responsibility to understand and comply with applicable motor carrier safety rules.

On July 13, 2018, the Commission received the Company's application for rail contract crew carrier authority. In the application, Jude Winters, State Regulatory Compliance Specialist, acknowledged the Company's responsibility to understand and comply with applicable motor carrier safety regulations.

On August 22, 2018, Staff provided new entrant carrier safety regulation training to PTI, where Jude Winters certified receiving training pertaining to maximum driving times and driver's record of duty status.

On December 15, 2021, Staff completed a routine safety investigation of PTI and discovered violations of 49 C.F.R. § 395.5(a)(1) and 49 C.F.R. § 395.8(a)(1). The Company knew or should have known about these requirements.

3. **Whether the Company self-reported the violations.** PTI did not self-report these violations.
4. **Whether the Company was cooperative and responsive.** The Company was cooperative throughout the safety investigation and expressed a desire to comply with the hours of service regulations.
5. **Whether the Company promptly corrected the violations and remedied the impacts.** PTI provided Staff with an updated hours of service policy outlining the expectations and monitoring of drivers' on-duty and driving status. The policy identifies that PTI's safety department will perform weekly hours of service auditing and annual refresher training.
6. **The number of violations.** Staff identified four violation types with a total of seven individual occurrences during its focused safety investigation of PTI. Of those violations, Staff identified two violation types with five individual occurrences that warrant penalties in accordance with the Commission's Enforcement Policy.
7. **The number of customers affected.** PTI reported traveling 294,096 intrastate miles and 51,009,025 interstate miles in 2022. These safety violations 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. PTI was cooperative during the safety investigation and expressed a desire to come into compliance with applicable safety regulations. Staff believes the likelihood of recurrence is low if the Company prioritizes compliance with maximum driving times and preparing records of duty status.

9. **The Company's past performance regarding compliance, violations, and penalties.** On December 31, 2014, the Commission assessed an \$18,800 penalty against PTI in Docket TE-144101 for safety violations of WAC 480-30-221. On February 13, 2015, the Commission entered Order 01, which suspended a \$6,700 portion of the penalty for a period of one year, subject to conditions. On February 12, 2015, the Company paid the \$12,100 unsuspended portion of the penalty in full.
- On April 5, 2016, the Commission issued a complaint in response to the follow-up investigation required by Order 01 in Docket TE-144101. On June 8, 2016, the Commission entered Order 02/01, which consolidated Dockets TE-144101 and TE-160231, imposed the \$6,700 suspended portion of the penalty for failing to comply with the conditions outlined in Order 01, assessed an additional \$164,200 penalty for safety violations of WAC 480-30-221, and suspended an \$85,450 portion of the penalty for a period of one year, subject to conditions. On June 16, 2016, the Company paid in full the \$78,750 unsuspended portion of the penalty from Docket TE-160231 and the \$6,700 imposed penalty from Docket TE-144101. On August 21, 2017, the Commission waived the \$85,450 suspended portion of the penalty
- On December 30, 2021, the Commission assessed a \$100 penalty against PTI in Docket TH-210970 for safety violations of WAC 480-62-278. On January 14, 2022, the Company paid the \$100 penalty in full.
10. **The Company's existing compliance program.** Jude Winters is responsible for the Company's safety compliance program.
11. **The size of the Company.** PTI employed 28 drivers and operated nine motor vehicles 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 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 PTI \$500 (Penalty Assessment), calculated as follows:

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

- One violation of 49 C.F.R. § 395.5(a)(1) – Requiring or permitting a passenger-carrying CMV driver to drive more than 10 hours. The Commission assesses a penalty of \$100 for this repeat violation.
- Four violations of 49 C.F.R. § 395.8(a)(1) – Failing to require driver to prepare a record of duty status using the appropriate method. The Commission assesses a penalty of \$100 for each occurrence of this repeat violation, for a total of \$400.

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 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 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 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> **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 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 wish to make a payment online, please use this link: [Make a Payment Now \(wa.gov\)](#).<sup>3</sup>

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

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

**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 June 13, 2023.

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

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
PENALTY ASSESSMENT TH-230410

**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 \$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 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.