

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: TE-240155
PENALTY AMOUNT: \$100

BML Investments LLC
d/b/a Wenatchee Valley Shuttle; Chelan Trolley Co.
PO Box 2163
Olympia, WA 98507

The Washington Utilities and Transportation Commission (Commission) believes BML Investments LLC, d/b/a Wenatchee Valley Shuttle, d/b/a Chelan Trolley Co., (BML Investments 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 391 – Parts and Accessories Necessary for Safe Operation.

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 March 6, 2024, Commission Motor Carrier Investigator Arber Demiri completed a commercial motor vehicle (CMV) inspection of BML Investments and documented the following violations:

- **One violation of 49 C.F.R. § 393.62 - Marked emergency exit is obstructed.** The Company operated a CMV with marked emergency exits that were obstructed at the time of inspection. This vehicle was placed out-of-service.¹

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 use CMVs with obstructed emergency exits put their customers at risk. This violation presents significant safety concerns.
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.

¹ VIN WDAPF4DD5GP265390

BML Investments began its operations in 2012 and has been subject to previous safety investigations conducted by Staff. In the Company's application for passenger transportation authority, the company's chief executive officer Monique Lott and the chief financial officer Byron Lott acknowledged their responsibility for understanding and complying with applicable state and federal safety regulations.

The Company knew or should have known about these requirements.

3. **Whether the Company self-reported the violation.** BML Investments did not self-report this violation.
4. **Whether the Company was cooperative and responsive.** The driver was cooperative throughout the safety inspection.
5. **Whether the Company promptly corrected the violation and remedied the impacts.** BML Investments corrected the out-of-service violation at the inspection site.
6. **The number of violations.** Staff identified two violations during the inspection of BML Investments driver and vehicle. The violations resulted in the vehicle being placed out-of-service. Of those violations, Staff identified one violation that warrants a penalty in accordance with the Commission's Enforcement Policy.
7. **The number of customers affected.** BML Investments last reported traveling 544,500 miles for 2023. This safety violation presents a public safety risk.
8. **The likelihood of recurrence.** The Company's drivers and vehicles have been subject to five inspections since 2022 with no occurrences of obstructed emergency exits. The driver was cooperative throughout the inspection process. Staff believes the likelihood of recurrence is low.
9. **The Company's past performance regarding compliance, violations, and penalties.** On January 5, 2018, the Commission issued the Company a penalty in the amount of \$1,500 in docket TE-171193 for safety violations of 49 C.F.R. § 382.305(a).

On January 19, 2018, the Company admitted to the violations and requested mitigation of the penalties.

On February 13, 2018, the Commission issued an order granting mitigation of the penalties to the amount of \$800.

On February 20, 2018, the Company paid the \$800 penalty in full.
10. **The Company's existing compliance program.** Jeff Jones, Safety Director, is responsible for the Company's safety compliance program.
11. **The size of the Company.** The Company employs 15 drivers and operates 14 CMVs. The Company reported \$2,676,747.43 in gross revenue in 2023.

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.² 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 BML Investments \$100 (Penalty Assessment), calculated as follows:

- One violation of 49 C.F.R. § 393.62 - Marked emergency exit is obstructed. 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 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

² Docket A-12,00061 – Enforcement Policy of the Washington Utilities & Transportation Commission – Section V.

you receive this Penalty Assessment.³ 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 \(wa.gov\)](#).⁴

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 March 22, 2024.

/s/ Michael Howard
MICHAEL HOWARD
Director, Administrative Law Division

³ <https://efiling.utc.wa.gov/Form>.

⁴ <https://www.utc.wa.gov/documents-and-proceedings/online-payments/make-payment-now>

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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 \$100 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.