

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: TE-240526
PENALTY AMOUNT: \$100

CWA, Inc.
d/b/a Airporter Shuttle; Bellair Charters; Hesselgrave South; Central Washington Airporter;
Travel Washington Grape Line; Travel Washington Gold Line
1416 Whitehorn St
Ferndale, WA 98248

The Washington Utilities and Transportation Commission (Commission) believes CWA, Inc. d/b/a Airporter Shuttle; Bellair Charters; Hesselgrave South; Central Washington Airporter; Travel Washington Grape Line; Travel Washington Gold Line (CWA 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 393 - 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 June 21, 2024, Commission Motor Carrier Safety Investigator Francine Gagne completed a commercial motor vehicle inspection of CWA and documented the following violation:

- **One violation of 49 C.F.R. § 393.62 - Buses - Required emergency exit not properly marked.** The Company used a commercial motor vehicle with an emergency exit that was not properly marked. The 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 commercial motor vehicles with deficient emergency exits put their customers and the traveling public 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

¹ VIN 1FDXE4FS1GDC19290

- Whether there is clear evidence through documentation or other means that shows the Company knew of and failed to correct the violation.

The Company began operations in 1985 and has been subject to numerous safety investigations and technical assistance provided by Staff.

On March 7, 2012, the Commission received the Company's application to extend its existing auto transportation authority. In the application, Richard Johnson, owner of CWA, acknowledged the Company's responsibility to understand and comply with applicable safety laws and regulations.

The Company knew or should have known about these requirements.

3. **Whether the Company self-reported the violation.** CWA did not self-report this violation.
4. **Whether the Company was cooperative and responsive.** The Company's driver was cooperative throughout the vehicle inspection.
5. **Whether the Company promptly corrected the violation and remedied the impacts.** CWA has not provided staff with evidence of correction.
6. **The number of violations.** Staff identified one violation during the inspection of CWA's driver and vehicle. The violation resulted in the vehicle being placed out-of-service. Staff identified one violation that warrants a penalty in accordance with the Commission's Enforcement Policy.
7. **The number of customers affected.** CWA last reported traveling 402,907 miles for 2023. The safety violation presents a public safety risk.
8. **The likelihood of recurrence.** The driver was cooperative throughout the inspection and was provided technical assistance with specific remedies. This is the first documented violation of this type for the Company. Staff believes the likelihood of recurrence is low.
9. **The Company's past performance regarding compliance, violations, and penalties.** On September 23, 2021, the Commission issued the Company a penalty in the amount of \$100 in docket TC-210632 for violating 49 CFR § 383.23(a)(2).

On November 4, 2021, the Company paid the \$100 penalty in full.
10. **The Company's existing compliance program.** Richard Johnson is responsible for the Company's safety compliance program.
11. **The size of the Company.** The Company employs 58 drivers and operates 29 commercial motor vehicles. The Company reported \$4,405,482.60 in intrastate 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 CWA \$100 (Penalty Assessment), calculated as follows:

- One violation of 49 C.F.R. § 393.62 - Buses - Required emergency exit not properly marked. The Commission assesses a penalty of \$100 for each occurrence of this out-of-service violation, for a total of \$100.

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 July 26, 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>

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TE-240526

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, 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(s) 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 violation(s), 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 they make a materially false statement which they know 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 their 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.