

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Penalty Assessment)	DOCKET TE-130198
Against)	
)	ORDER 01
EXCALIBUR LIMOUSINE, LLC)	
)	INITIAL ORDER GRANTING
In the Amount of \$1,800)	MITIGATION
)	
.....)	

1 **Procedural History.** On March 4, 2013, the Washington Utilities and Transportation Commission (Commission) issued a penalty assessment against Excalibur Limousine, LLC d/b/a Seattle Green Limo (Excalibur or Company) in the amount of \$1,800 alleging 18 violations of WAC 480-30-071, which requires charter and excursion companies to file annual safety reports with the Commission by December 31, and WAC 480-30-076, which requires such companies to pay annual regulatory fees on that date.

2 On March 11, 2013, Excalibur filed a request for a hearing with the Commission, stating that the Company had filed its 2012 safety report and would not be registering or paying for vehicles because all of the Company’s vehicles were either sold or for sale. Excalibur added that it had contacted the Commission in December 2012 and January 2013 to tell the Commission that the business was no longer in operation.

3 On March 21, 2013, Commission Staff (Staff) filed a response opposing mitigation of the penalty. The response stated that Excalibur had failed to include a list of the Company’s vehicles in its annual safety report form, complete the regulatory fee sheet, and pay its regulatory fees for 2013. Staff explained that Excalibur received a penalty for violations of WAC 480-30-071 in 2011, and as a second time late-filer, the Company is not eligible for administrative mitigation.

4 **Hearing.** Pursuant to RCW 34.05.482 and WAC 480-07-610, the Commission determined that a brief adjudicative proceeding was appropriate for determining whether the penalty should be mitigated. On March 27, 2013, the Commission issued a Notice of Brief Adjudicative Proceeding and set April 26, 2013, at 10:00 a.m. as the time for the parties to make oral statements concerning their positions.

5 **Appearances.** Michael A. Fassio, Assistant Attorney General, Olympia, Washington, represented Commission Staff.¹ Kevin Williams, owner of Excalibur, Kenmore, Washington, represented the Company.

6 **Evidence.** At the hearing, Mr. Williams did not dispute receiving the Commission's letter of November 15, 2012, which included the annual safety report form and regulatory fee reminder packet. Mr. Williams explained that because Excalibur ceased doing business on December 4, 2012, Mr. Williams did not believe that he needed to file an annual report for 2012 or pay a regulatory fee for 2013. Mr. Williams also did not dispute receiving the Commission's Notice of Enforcement Action letter of January 7, 2013, which stated that the Company's failure to file its safety report and pay its annual regulatory fee could result in penalties of up to \$100 per day per violation, but that if the Company filed and paid by January 18, Commission Staff would reduce the penalty to \$50 per day. On January 11, 2013, Excalibur filed its safety report.

7 The record reflects that Mr. Williams contacted the Commission by telephone and email several times between December 2012 and March 2013. Mr. Williams spoke with the Commission's federal permit liaison and with financial services personnel in an effort to explain that he was no longer operating and had no vehicles to list in the annual report form.

8 At the conclusion of the hearing, Staff recommended further mitigation in this matter, reducing the penalty to \$900 payable immediately and conditioned upon Excalibur's filing a completed annual report and paying an additional \$20, the minimum annual fee, together with the late fee required under RCW 81.24.075 of two percent of the amount due plus one percent interest for one month, for a total of \$20.60.

9 **Decision.** The Commission finds that further mitigation is appropriate in this case. Excalibur filed its annual safety report for 2012 on January 11, 2013. The Company reported no safety violations. The Company had a reasonable belief that it did not need to list its vehicles in that report because the Company's three vehicles had been

¹ In adjudications, the Commission's regulatory staff participates like any other party, while the Administrative Law Judge or the Commissioners make the decision. To assure fairness, the Commissioners and the presiding administrative law judge do not discuss the merits of the proceeding with regulatory staff or any other party without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

sold or were for sale and that the Company was no longer operating. Excalibur also attempted to work with Commission Staff in a number of phone calls and email exchanges.

- 10 The Commission determines that Excalibur filed its annual report within the grace period identified in the January 7, 2013, Notice of Enforcement Action letter and that the Company should not be penalized for not including a list of its vehicles in its safety report. The Commission will exercise its discretion to grant Excalibur the benefit of the mitigated \$50 per day rate of assessment.
- 11 The penalty assessed against Excalibur is recalculated at a rate of \$50 per day for the five business days the company was late in filing its annual report. This results in a revised penalty in the amount of \$250. Excalibur must also pay the minimum annual fee of \$20,² plus an automatic late fee of two percent of the amount due plus one percent interest for one month, for a total annual fee of \$20.60.

ORDER

THE COMMISSION ORDERS:

- 12 (1) The \$1,800 penalty assessed against Excalibur is mitigated to \$250.
- 13 (2) Excalibur shall pay the minimum annual fee and penalty and interest thereon for a total of \$20.60.
- 14 (3) The total sum of \$270.60 is immediately due and payable to the Commission.

DATED at Olympia, Washington, and effective May 2, 2013.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

STEPHANY A. WATSON
Administrative Law Judge

² WAC 480-30-076 (1)(b) states that the “minimum fee that an auto transportation company must pay is twenty dollars.”

NOTICE TO PARTIES

This is an Initial Order. The action proposed in this Initial Order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order, and you would like the Initial Order to become final before the time limits expire, you may send a letter to the Commission waiving your right to petition for administrative review.

WAC 480-07-825(2) provides that any party to this proceeding has 20 days after the entry of this Initial Order to file a Petition for Administrative Review (Petition). Section (3) of the rule identifies what you must include in any Petition as well as other requirements for a Petition. WAC 480-07-825(4) states that any party may file an Answer to a Petition (Answer) within 10 days after service of the Petition.

WAC 480-07-830 states that before the Commission enters a final order, any party may file a petition to reopen a contested proceeding to permit receipt of evidence essential to a decision, which was unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. The Commission will not accept answers to such a petition unless the Commission requests answers by written notice.

RCW 80.01.060(3) provides that an Initial Order will become final without further Commission action if no party seeks administrative review of the Initial Order and if the Commission does not exercise administrative review on its own motion. You will be notified if this order becomes final either by operation of law or on administrative review.

One copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). To file a Petition or Answer with the Commission, you must file an original and seven copies of your Petition or Answer by mail delivery to:

Attn: Steven V. King, Acting Executive Director and Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, Washington 98504-7250