

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Determining the Proper
Carrier Classification of, and Complaint
for Penalties Against:

KIM JONES D/B/A DESERT WAVE

DOCKET TE-190052

COMMISSION STAFF'S MOTION TO
IMPOSE SUSPENDED PENALTIES

I. INTRODUCTION

1 In Docket TE-190052, the Washington Utilities and Transportation Commission (“Commission”) assessed a \$10,000 penalty against Kim Jones d/b/a Desert Wave (“Desert Wave” or “Company”) for two violations of RCW 81.70.260(1). The Commission suspended \$9,000 of the \$10,000 penalty for a period of two years on the condition that the Company refrained permanently from further operations as a charter party or excursion service carrier in the state of Washington without first obtaining the required certificate from the Commission. Commission Staff (“Staff”) performed a follow-up investigation and determined that the Company violated this condition. Consequently, Staff submits this motion to impose the suspended penalty imposed in Order 02 in Docket TE-190052 (“Order 02”).

II. RELIEF REQUESTED

2 Staff respectfully requests that the Commission grant its motion and impose the \$9,000 suspended penalty assessed in Order 02.

III. STATEMENT OF FACTS

3 On June 4, 2019, the Commission entered Order 02.¹ In Order 02, the Commission assessed a penalty of \$10,000 against Desert Wave for two violations of RCW 81.70.260(1)—operating as a charter party or excursion service carrier in the state of Washington after the cancellation or revocation of a certificate from the Commission.² The Commission suspended \$9,000 of the \$10,000 penalty for a period of two years, then waived thereafter, on the condition that the Company “refrains permanently from further operations as a charter party or excursion service carrier in the state of Washington without first obtaining the required certificate from the Commission.”³ The effective date of Order 02 is June 4, 2019.⁴

4 On May 12, 2021, Staff initiated a follow up investigation of Desert Wave to determine if the Company was in compliance with the conditions in Order 02.⁵ While conducting this investigation, Staff determined that Desert Wave failed to comply with Order 02, because the Company failed to refrain permanently from further operations as a charter party or excursion service carrier in the state of Washington without first obtaining the required certificate from the Commission.⁶ Staff documented, as detailed in the Declaration of Jason Hoxit filed concurrently with this Motion, that the Company has

¹ Declaration of Jason Hoxit at ¶ 5 (citing Attachment C, *In the Matter of Determining the Proper Carrier Classification of, and Complaint for Penalties Against Kim Jones d/b/a Desert Wave*, Docket TE-190052, Order 02 (June 4, 2020)).

² *Id.*

³ *Id.* at Attachment C, ¶ 22.

⁴ *Id.* at Attachment C, 5.

⁵ *Id.* at ¶ 9.

⁶ *Id.* at ¶ 20.

continued to advertise and offer charter party or excursion carrier services without the required certificate from the Commission.⁷

IV. STATEMENT OF ISSUES

5 Should the Commission impose the \$9,000 suspended penalty in Order 02, given that
Desert Wave failed to meet the condition of the suspended penalty?

V. EVIDENCE RELIED UPON

6 Staff relies upon the Declaration of Jason Hoxit and associated attachments, filed
concurrently with this motion.

VI. ARGUMENT

7 In Order 02, the Commission suspended a \$9,000 portion of the \$10,000 penalty
assessed against Desert Wave “for a period of two years from the date of this Order, and
waived thereafter, provided Desert Wave refrains permanently from further operations as a
charter party or excursion service carrier in the state of Washington without first obtaining
the required certificate from the Commission.”⁸ Based on its investigation conducted in May
2021, Staff determined that the Company has continued to operate as a charter party or
excursion service carrier without first obtaining the required certificate for such operations
from the Commission. The Commission should, accordingly, find that the Company violated
a condition of the suspended penalty and impose the \$9,000 portion of the penalty assessed
and conditionally suspended in Order 02.

⁷ See *id.* at ¶¶ 10–18.

⁸ *Id.* at Attachment A, ¶ 22.

VII. CONCLUSION

8 Staff respectfully requests that the Commission grant its motion and impose the \$9,000 suspended penalty assessed in Order 02 in Docket TE-190052.

DATED this 1st day of June 2021.

Respectfully submitted,

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