

## WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: TR-131282  
PENALTY AMOUNT: \$700

PUGET SOUND AND PACIFIC RAILROAD COMPANY  
1710 MIDWAY COURT  
CENTRALIA, WA 98531

The Washington Utilities and Transportation Commission (Commission) believes that you have committed one or more violations of Washington Administrative Code (WAC) 480-62-225, Crossing surfaces, which requires railroad companies to maintain and keep crossing surfaces in repair. Revised Code of Washington (RCW) 81.04.405 allows penalties of one hundred dollars for every such violation. In the case of a continuing violation, every day's continuance is deemed to be a separate and distinct violation. As a result, the Commission hereby notifies you that it has assessed penalties against you in the amount of \$700, as follows:

Commission Rail Safety staff issued a notice of a crossing surface defect at Foron Road (USDOT #092559P) to Puget Sound and Pacific Railroad Company (PSAP) on September 28, 2012. PSAP provided a commitment date of March 31, 2013, for repairing the crossing. However, upon re-inspection by Commission staff on April 16, 2013, the crossing defect had not been repaired.

On May 6, 2013, Commission staff sent a letter to Brian Altiero, Roadmaster at PSAP, regarding unresolved railroad crossing defects at several crossings, including Foron Road. Mr. Altiero responded on May 19, 2013, and committed to repairing Foron Road by June 30, 2013.

On July 1, 2013, having received no confirmation from PSAP that the defect had been repaired, Commission staff contacted Mr. Altiero by email. Mr. Altiero responded by email on July 2, committing to repairing the Foron Road crossing by July 3, 2013.

Rail Safety Manager Kathy Hunter re-inspected the Foron Road crossing on July 10, 2013. As of that date, the crossing surface defect had not been corrected. The violation at the crossing has continued for seven days beyond PSAP's commitment date. In the case of a continuing violation, every day's continuance is deemed to be a separate and distinct violation.

This information, if proved 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 violations did not occur, you may request a hearing to contest the penalty assessment. If there is a reason for the violations that you think should excuse you from the penalty, you may ask for mitigation (reduction) of this penalty. See RCW 81.04.405.

You have the right to present your request for review or mitigation at a hearing, but you are not required to do so. If you do, the Commission will review the evidence supporting your request in an informal hearing, called a Brief Adjudicative Proceeding, before an administrative law judge. The administrative law judge will consider your plea and notify you of his or her decision.

**You must act within 15 days after receiving this notice** to do one of the following:

- Pay the amount due.
- Request a hearing to contest the occurrence of the violations.
- Request mitigation to contest the amount of the penalty.

Please indicate your selection on the enclosed form and send it to the Washington Utilities and Transportation Commission, Post Office Box 47250, Olympia, Washington 98504-7250, **within FIFTEEN (15) days** after you receive this notice.

**If you do not act within 15 days**, the Commission may refer this matter to the Office of the Attorney General for collection. The Commission may then sue you to collect the penalty.

DATED at Olympia, Washington, and effective July 11, 2013.



GREGORY J. KOPTA  
Director, Administrative Law Division

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**  
**PENALTY ASSESSMENT TR-131282**

**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 violation occurred and enclose \$ \_\_\_\_\_ in payment of the penalty.
2. **Request for a hearing.** I believe that the alleged violation did not occur, based on the following information, and request a hearing, which is a process that allows an affected person to present argument to an administrative law judge for a decision by an administrative law judge:
3. **Application for mitigation.** I admit the violation, but I believe that the penalty should be reduced for the reason(s) set out below,
- a) I ask for a hearing for a decision by an administrative law judge based on the information presented above.
- OR  b) I waive a hearing and ask for an administrative decision on the information I present directly 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

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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 makes a materially false statement which he 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 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.”