

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: TE-140035

PENALTY AMOUNT: \$1,000

AIRPORT TRANSPORTER ASSOCIATION LLC
241 S LANDER STREET #205
SEATTLE, WA 98134

The Washington Utilities and Transportation Commission (Commission) believes that you have committed one or more violations of Washington Administrative Code (WAC) 480-30-221, Vehicle and driver safety requirements, which requires passenger transportation companies to comply with Title 49, Code of Federal Regulations (CFR), including Part 383 – Commercial Driver’s License Standards, Requirements and Penalties, and with out-of-service orders. Revised Code of Washington (RCW) 81.04.405 allows penalties of one hundred dollars for every such violation.

As a result, the Commission hereby notifies you that it has assessed penalties against you in the amount of \$1,000, as follows:

- **Five violations of CFR Part 383.23(a)(2) – Operating a commercial motor vehicle without a commercial driver’s license (CDL).** Aedao Dube drove a commercial motor vehicle without a CDL on five occasions: September 13, 19, 28 and 29, and October 20, 2013.
- **Five violations of WAC 480-30-221(7) – Violating an out-of-service order.** Mr. Dube operated a commercial motor vehicle on five occasions (September 13, 19, 28, 29 and October 20, 2013) despite having been declared out-of-service until the conditions causing him to be declared out-of-service had been corrected.

While conducting a destination check inspection at SeaTac International Airport on September 13, 2013, Commission Motor Carrier Inspector John Foster documented a violation by Airport Transporter Association, LLC (Airport Transporter) of CFR Part 383.23(a)(2) – Operating a commercial motor vehicle without a CDL. Mr. Dube, the company’s president, was operating a commercial motor vehicle which required him to possess a CDL. However, Mr. Foster verified through the Department of Licensing (DOL) that Mr. Dube did not possess a CDL.

The Commission adopts by reference the Commercial Vehicle Safety Alliance’s (CVSA) North American Standard Out-of Service Criteria (OOSC)¹. The OOSC identifies violations

¹ WAC 480-30-999 – Adoption by reference.

that render commercial motor vehicle operators unqualified to drive or out-of-service.² If, during roadside enforcement, Commission staff finds that a driver is operating a passenger-carrying commercial motor vehicle without possessing a valid CDL, the violation is considered severe enough that the driver is declared out-of-service. When Mr. Foster informed Mr. Dube that he was declared out-of-service and was not allowed to continue driving, Mr. Dube disagreed with the violation and drove away.

Commission staff conducted follow-up inspections at Airport Transporter's terminal in Seattle in October and November 2013. On November 8, 2013, Motor Carrier Inspector Alan Dickson verified through DOL that Mr. Dube had not obtained a CDL. However, trip records indicated Mr. Dube operated a commercial motor vehicle without a CDL on four occasions after being placed out-of-service on September 13 (September 19, 28, 29 and October 20, 2013). As of January 9, 2014, Mr. Dube does not possess a CDL.

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 you receive 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.

² 2013 North American Standard Out-of-Service Criteria Handbook and Pictorial, April 2013, CVSA Part 1 Policy Statement and CDL violations, Pages 1-2.

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 January 13, 2014.



GREGORY J. KOPTA
Director, Administrative Law Division

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TE-140035

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

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.”