

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
NOTICE OF PENALTIES INCURRED AND DUE
FOR VIOLATIONS OF LAWS AND RULES

PENALTY ASSESSMENT: TE-161100
PENALTY AMOUNT: \$700

People for People
304 West Lincoln Avenue
Yakima, WA 98902

The Washington Utilities and Transportation Commission (Commission) believes that you have committed violations of Washington Administrative Code (WAC) 480-30-221 Vehicle and Driver Safety Requirements, which requires charter and excursion carriers to comply with Title 49 CFR Part 396 – Inspection, Repair and Maintenance.

Revised Code of Washington (RCW) 81.04.405 allows penalties of one hundred dollars for each violation of Title 49 CFR Part 396. In the case of an ongoing violation, every day's continuance is considered a separate and distinct violation.

In August 2016, Commission Motor Carrier Investigator Wayne Gilbert conducted a compliance review of People for People and documented the following violations of critical regulations:

- **Seven violations of CFR Part 396.17(a) – Using a commercial motor vehicle not periodically inspected.** People for People allowed its employees to operate seven commercial motor vehicles that had not been periodically inspected.

The Commission considered the following factors in determining the appropriate penalties for these violations:

1. **How serious or harmful the violation is to the public.** The violations noted are serious and potentially harmful to the public. Companies that use vehicles that are not periodically inspected put the traveling public at risk. A vehicle with an undocumented mechanical defect presents serious safety concerns.
2. **Whether the violation is intentional.** Considerations include:
 - Whether the company ignored Commission staff's (Staff) previous technical assistance; and
 - Whether there is clear evidence through documentation or other means that shows the company knew of and failed to correct the violation.

In its August 2013 application for auto transportation authority, and in its November 2014 application for extension of its auto transportation certificate, the company acknowledged its responsibility to understand and comply with applicable motor carrier safety rules.

Staff conducted compliance reviews in 2003, 2004 and 2010. Staff found similar violations in the 2003 compliance review, but not in 2004 or 2010. The company knew, or should have known about these requirements.

3. **Whether the company self-reported the violation.** The company did not self-report these violations.
4. **Whether the company was cooperative and responsive.** People for People was very cooperative and responsive.
5. **Whether the company promptly corrected the violations and remedied the impacts.** The company took immediate steps to correct these violations.
6. **The number of violations.** Although more than half of the vehicles examined had not been periodically inspected, for a company this size the number of critical violations noted is unremarkable.
7. **The number of customers affected.** People for People serves a large area in Eastern Washington. In 2015, the company reported 985,517 miles traveled, and \$14,775,692 in revenue. Many customers were potentially put at risk by these violations.
8. **The likelihood of recurrence.** The Commission does not know if the company is likely to repeat these violations, however the company has provided evidence of immediate steps taken to correct the violations and prevent future occurrences.
9. **The company's past performance regarding compliance, violations, and penalties.** Compliance reviews were conducted in 2003, 2004, 2010 and 2016. Similar violations were noted in 2003, however this is the first time that penalties have been recommended.
10. **The company's existing compliance program.** People for People has no formal compliance program.
11. **The size of the company.** People for People operates 51 commercial vehicles with 37 drivers.

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.¹ Otherwise, the Commission generally will assess penalties per type of violation, rather than per occurrence, for other first-time violations of critical regulations that do not meet the criteria for mandatory penalties. However, these are repeat violations, and the Commission will assess penalties for any repeat violations of critical

¹ Docket A-120061 – Enforcement Policy of the Washington Utilities & Transportation Commission – Section V.

regulations found in future compliance investigations, including for each occurrence of a repeat violation.

The Commission has considered these factors and determined that it should penalize People for People \$700 for violations of WAC 480-30-221 Vehicle and Driver Safety Requirements, which adopts CFR Part 396, calculated as follows:

- Seven violations of CFR Part 396.17(a) – Using a commercial motor vehicle not periodically inspected. These are repeat violations, and thus the Commission assesses a penalty of \$100 for each occurrence, for a total of \$700.

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 any or all of the violations did not occur, you may deny committing the violation(s) and contest the penalty assessment 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 concerning the violation(s) require consideration of evidence and resolution in a hearing. Any contest of the penalty assessment must include a written statement of the reasons supporting that contest. Failure to provide such a statement will result in denial of the contest.

If there is a reason for any or all of the violations that you believe should excuse you from the penalty, you may ask for mitigation (reduction) of this 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 for mitigation 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(s) 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 his or her 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 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 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 Olympia, Washington, and effective October 5, 2016.



GREGORY J. KOPTA
Administrative Law Judge

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TE-161100

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. **Contest the violation.** I believe that the alleged violation did not occur for the reasons I describe below:
 - 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, but I believe that the penalty should be reduced for the reasons set out below:
 - 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 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.”