

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

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

DUANE COGGINS,
D/B/A KOKOPELLI'S RUN

DOCKET TE-180805

COMMISSION STAFF'S MOTION
TO IMPOSE SUSPENDED PENALTY

I. INTRODUCTION

1 In Docket TE-180805 the Commission imposed a penalty on Duane Coggins, d/b/a Kokopelli's Run (Kokopelli's Run or Company) for violating RCW 81.70.260(1), but suspended a portion of that penalty on the Company's compliance with certain conditions. One of these conditions required the Company to permanently refrain 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. Staff performed a follow-up investigation and determined that the Company 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, consequently, should impose the suspended penalty.

II. RELIEF REQUESTED

2 Staff respectfully requests that the Commission order Kokopelli's Run to pay the \$7,500 penalty that the Commission imposed, but then suspended, in Docket TE-180805.

III. STATEMENT OF FACTS

3 On November 14, 2018, the Commission entered Order 02 in Docket TE-180805.¹ In
Order 02, the Commission imposed a penalty of \$10,000 on Kokopelli's Run for two
violations of RCW 81.70.260(1) for operating as a charter party or excursion service carrier
in the state of Washington after the cancellation of its certificate.²

4 The Commission, however, suspended \$7,500 of the penalty that it imposed,
conditioned on the Company's ongoing compliance with certain conditions.³ One of those
conditions required the Company to permanently refrain 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.⁴

5 On April 19, 2019, Kokopelli's Run filed with the Commission an application to
reinstate its charter and excursion authority.⁵

6 On July 16, 2019, the Company's authority to provide charter party and excursion
carrier service was reinstated by the Commission in Docket TE-190301.⁶ On August 13,
2019, Kokopelli's Run paid the \$2,500 portion of the penalty that was not suspended in
full.⁷

7 On April 10, 2020, Kokopelli's Run filed with the Commission its request to cancel
certificate CH-62592, citing the economic downturn caused by the COVID-19 pandemic.⁸

¹ See generally *In re Determining the Proper Carrier Classification of, and Complaint for Penalties Against Duane Cogging d/b/a Kokopelli's Run*, Docket TE-180805, Order 02 (Nov. 14, 2018) ("Order 02").

² *Id.* at 4 ¶¶ 17-18.

³ *Id.* at 4 ¶ 21.

⁴ *Id.*

⁵ Declaration of Jason Hoxit ("Hoxit Decl.") at ¶ 6.

⁶ *Id.* at ¶ 7.

⁷ *Id.*

⁸ *Id.* at 8.

8 On April 10, 2020, the Commission issued a voluntary cancellation letter in Docket TE-200344 notifying Kokopelli’s Run that its authority to provide charter party and excursion service was canceled and that the Company “must **cease** all operations associated with this certificate.”⁹

9 In September and October 2020, Staff performed a follow-up investigation of Kokopelli’s Run to check for compliance with Order 02 in Docket TE-180805.¹⁰ In the course of that review, Staff determined that the Company failed to comply with the condition in Order 02 in Docket TE-180805 that it 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.¹¹ Staff documented, as detailed in the Declaration of Jason Hoxit filed concurrently with this Motion, that the Company continued to advertise, operate, and/or offer charter party or excursion service without the required authority from the Commission.¹²

IV. STATEMENT OF ISSUES

10 Should the Commission order Kokopelli’s Run to pay the \$7,500 portion of the penalty the Commission imposed on the Company, but then suspended, in Docket TE- 180805?

V. EVIDENCE RELIED UPON

11 Staff relies on the record in Docket TE-180805 as well as the Declaration of Jason Hoxit and associated attachments, filed concurrently with this Motion.

⁹ *In re the Request of Duane Cogging d/b/a Kokopelli’s Run to Cancel Certificate CH062592*, Docket TE-200344, Letter from Suzanne Stillwell, Licensing Services Manager (dated April 10, 2020) (emphasis in original).

¹⁰ Hoxit Decl. at ¶ 9.

¹¹ *Id.* at ¶ 9-20.

¹² *Id.*

VI. ARGUMENT

12 In Order 02 in this Docket, the Commission suspended a \$7,500 portion of the \$10,000 penalty it imposed against the Company “for a period of two years from the date of this Order, and waived thereafter, provided Kokopelli’s Run 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.”¹³ Based on its investigation conducted in September and October 2020, Staff determined that the Company 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 the terms of the penalty suspension and order the Company to pay the \$7,500 portion of the penalty imposed in Docket TE-180805 that was conditionally suspended in Order 02.

VII. CONCLUSION

13 Staff respectfully requests that the Commission grant its motion and order the Company to pay the \$7,500 portion of the penalty imposed but suspended in Docket TE-180805.

DATED this 15th day of October 2020.

Respectfully submitted,

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¹³ Order 02 at 5 ¶ 21.