

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

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

PENALTY ASSESSMENT: TH-210970  
PENALTY AMOUNT: \$100

Professional Transportation, Inc.  
3700 E Morgan Ave.  
Evansville, IN 47715

The Washington Utilities and Transportation Commission (Commission) believes Professional Transportation, Inc., (Professional Transportation or Company) violated Washington Administrative Code (WAC) 480-62-278, Contract Crew Transportation Vehicle and Driver Safety Requirements, which adopts Title 49 Code of Federal Regulations (49 C.F.R.) Part 393 – Parts and Accessories Necessary for Safe Operation.

Revised Code of Washington (RCW) 81.04.405 allows penalties of \$100 for each violation. In the case of an ongoing violation, every day's continuance is considered a separate and distinct violation.

On December 15, 2021, Commission Motor Carrier Investigator Edward Steiner completed a routine safety investigation of Professional Transportation and documented the following violation:

- **One violation of 49 C.F.R. § 393.9(a) – Lamps operable, prohibition of obstructions of lamps and reflectors.** Commission staff (Staff) discovered a contract crew transportation vehicle that had an inoperative driver side rear turn signal.<sup>1</sup> The vehicle was placed out-of-service.

The Commission considered the following factors in determining the appropriate penalty for this violation:

1. **How serious or harmful the violation is to the public.** The violation noted is serious and potentially harmful to the public. Rail contract crew transportation companies that use contract crew transportation vehicles in need of repairs put their passengers and the traveling public at risk. This violation presents serious safety concerns.
2. **Whether the violation was intentional.** Considerations include:
  - Whether the Company ignored Staff's 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.

On November 20, 2012, the Commission received the Company's application for transfer of CUSA CSS, LLC's charter and excursion authority. In the application, Bobby Vincent,

---

<sup>1</sup> Equipment Identification: F08601.

Safety Director of Professional Transportation, acknowledged the Company's responsibility to understand and comply with applicable motor carrier safety rules.

On July 13, 2018, the Commission received the Company's application for rail contract crew carrier authority. In the application, Jude Winters, State Regulatory Compliance Specialist, acknowledged the Company's responsibility to understand and comply with applicable motor carrier safety rules.

On August 22, 2018, Staff provided Jude Winters with technical assistance training related to rail contract crew transportation company safety rules.

The Company should have known about these requirements.

3. **Whether the Company self-reported the violation.** Professional Transportation did not self-report this violation.
4. **Whether the Company was cooperative and responsive.** Professional Transportation was cooperative throughout the investigation and expressed a desire to come into compliance with the safety regulations.
5. **Whether the Company promptly corrected the violation and remedied the impacts.** Professional Transportation has not provided Staff with evidence that it corrected the violation.
6. **The number of violations.** Staff identified 13 violation types with a total of 30 individual occurrences during the routine safety investigation of Professional Transportation. Of those violations, Staff identified one violation type with one individual occurrence that warrants a penalty in accordance with the Commission's Enforcement Policy.
7. **The number of customers affected.** Professional Transportation traveled 73,000,000 miles in 2020. This safety violation presented a significant public safety risk.
8. **The likelihood of recurrence.** The Company was cooperative throughout the safety investigation and was provided technical assistance with specific remedies to help the Company assess how well its safety management controls support safe operations and how to begin improving its safety performance. In light of these factors, Staff believes the likelihood of recurrence is low.
9. **The Company's past performance regarding compliance, violations, and penalties.** On December 31, 2014, the Commission assessed a \$18,800 penalty against Professional Transportation in Docket TE-144101 for safety violations of WAC 480-30-221. On February 13, 2015, the Commission entered Order 01, which suspended a \$6,700 portion of the penalty for a period of one year, subject to conditions. On February 12, 2015, the Company paid the \$12,100 unsuspended portion of the penalty in full.

On April 5, 2016, the Commission issued a complaint in response to the follow-up investigation required by Order 01 in Docket TE-144101. On June 8, 2016, the Commission entered Order 02, which consolidated dockets TE-144101 and TE-160231, imposed the \$6,700 suspended portion of the penalty for failing to comply with the

conditions outlined in Order 01 by incurring repeat violations, assessed an additional \$164,000 penalty for safety violations of WAC 480-30-221, and suspended an \$85,450 portion of the penalty for a period of one year, subject to conditions. On June 16, 2016, the Company paid the \$85,450 unsuspended portion of the penalty in full. On August 21, 2017, the remaining \$85,450 suspended portion of the penalty was waived.

10. **The Company's existing compliance program.** Jude Winters is responsible for the Company's safety compliance program.

11. **The size of the Company.** The Company currently owns 19 CMVs and employs 51 drivers. The Company reported \$108,360,294 in gross revenue for 2020.

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.<sup>2</sup> The Commission generally will assess penalties by violation category, rather than per occurrence, for first-time violations of those critical regulations that do not meet the requirements for mandatory penalties. The Commission will assess penalties for any equipment violation meeting the Federal Motor Carrier Safety Administration's "out-of-service" criteria and also for repeat violations of critical regulations, including each occurrence of a repeat violation.

The Commission has considered these factors and determined that it should penalize Professional Transportation \$100, calculated as follows:

- One violation of 49 C.F.R. § 393.9(a) – Lamps operable, prohibition of obstructions of lamps and reflectors. The Commission assesses a penalty of \$100 for this out-of-service violation.

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 the violation did not occur, you may deny committing the violation and contest the penalty through evidence presented at a hearing or in writing. Alternatively, if there is a reason for the violation that you believe should excuse you from the penalty, you may ask for mitigation (reduction) of the 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 to contest the violation or for mitigation of the penalty 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 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 their decision.

---

<sup>2</sup> Docket A-120061 – Enforcement Policy of the Washington Utilities & Transportation Commission – Section V.

**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 violation.
- Admit the violation but request mitigation of the penalty amount.

Please indicate your selection on the enclosed form and submit it electronically through the Commission's web portal **within FIFTEEN (15) days** after you receive this notice. If you are unable to use the web portal, you may submit it via email to records@utc.wa.gov. If you are unable to submit the form electronically, you may send a paper copy to the Washington Utilities and Transportation Commission, PO Box 47250, Olympia, Washington 98504-7250.

**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 Lacey, Washington, and effective December 30, 2021.

*/s/Rayne Pearson*  
RAYNE PEARSON  
Director, Administrative Law Division

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
PENALTY ASSESSMENT TH-210970

**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 \$100 in payment of the penalty.
- 2. **Contest the violation.** I believe that the alleged violation did not occur for the reasons I describe below (**if you do not include reasons supporting your contest here, your request will be denied**):

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 (**if you do not include reasons supporting your application here, your request will be denied**):

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