

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Penalty Assessment)	DOCKET TE-061282
Against)	
)	ORDER 01
MONROE TRANSPORTATION LTD)	
D/B/A CHINOOK CHARTER)	
SERVICE)	GRANTING, IN PART, REQUEST
)	FOR MITIGATION
in the Amount of \$4,100)	
.....)	

MEMORANDUM

- 1 **Background:** On August 28, 2006, the Washington and Utilities Transportation Commission (Commission) assessed a penalty in the amount of \$4,100 against Monroe Transportation Ltd d/b/a Chinook Charter Service (Chinook) for 41 alleged violations of WAC 480-40-070 which adopts, by reference, certain portions of the Code of Federal Regulations.

- 2 On September 8, 2006, Chinook filed an application for mitigation and requested a hearing. Although Chinook requested a hearing, the application for mitigation did not state the specific reduction amount Chinook believed was appropriate or provide any reason in support of its request. The Commission Staff (Staff) did not oppose the request for hearing. Accordingly, the Commission issued a notice requiring Chinook to provide a statement of reason(s) it believed mitigation was appropriate and scheduling this matter for a brief adjudicative proceeding.

- 3 On October 25, 2006, Chinook timely filed its statement of reasons in support of penalty mitigation. Chinook also waived a hearing and requested an administrative decision on the information presented. In the same document, Chinook requested that the hearing be cancelled, that its letter be considered as testimony, and requested a decision by an administrative law judge.¹

¹ The latter action requesting that the hearing be cancelled and that an administrative law judge issue a decision is in apparent conflict with the waiver of hearing and request for administrative decision.

- 4 On October 25, 2006, the Commission issued a notice cancelling the hearing and stating that the matter would be forwarded to the Executive Secretary for an administrative decision.
- 5 On October 31, 2006, the Executive Secretary sent a letter to Staff permitting them to file a response to the statement in support of penalty reduction by November 16, 2006.
- 6 On November 13, 2006, Staff timely filed a response to the application for mitigation opposing, in part, mitigation of the penalty assessment.
- 7 On November 29, 2006, Chinook made a payment in the amount of \$4,000.
- 8 **Request for Mitigation:** In the statement in support of penalty reduction, Chinook requested mitigation of the penalty associated with 20 of the 41 violations. Chinook asserted that, in the past, if violations were corrected at the time of the inspection, no fine was imposed. Chinook asserted that it corrected three violations at the time of the inspection, a tire with less than 50 percent of maximum pressure and two inoperable emergency exits. Chinook provided documentation that these violations were corrected on site.
- 9 Chinook also requested a reduction in the penalties associated with 17 violations for failure to keep records for a bus donated to a youth group in Poulsbo that was no longer in service. Chinook asserted that it was unaware that maintenance records must be maintained for six months. Chinook requested that the number of violations related to the bus be reduced or that the penalty associated with the violations be reduced.
- 10 In response to the statement in support of penalty reduction, Commission Staff opposed mitigation of the penalty associated with the 17 recordkeeping violations. Staff contended that it visited Chinook seven times between October 14, 1999, and October 5, 2006, and conducted four complete compliance reviews and three additional vehicle and safety records checks. Staff argued that Chinook either knew or should have known about the recordkeeping requirements for its vehicles.
- 11 Staff supported mitigation of the \$100 penalty associated with operating a vehicle with a flat tire because the tire was repaired on site. Staff opposed mitigation of the \$200 penalty associated with failing to maintain push-out windows or emergency

exits. Staff asserted that it has provided ample technical assistance to Chinook. Staff argued that violations of this nature are critical because they may have catastrophic consequences if an accident occurs.

12 Staff stated that it did not oppose Chinook's request to discharge the remaining \$4,000 penalty assessment in twelve equal monthly installments over a period of one year to allow Chinook to operate without experiencing undue economic burden.²

13 **Decision:** According to WAC 480-07-495, the Commission takes official notice of all documents filed in this proceeding. According to the Penalty Assessment Transaction Log entry in this proceeding, Chinook made a payment in the amount of \$4,000 on November 29, 2006. The payment by Chinook is inconsistent with the application for mitigation and appears to render moot its request for mitigation of a portion of the penalty assessment. Accordingly, the sole issue is whether the remaining \$100 penalty should be mitigated. All parties concur that this penalty assessment involved a tire with less than 50 percent of maximum pressure that the tire was repaired/replaced on site. There is no opposition to mitigation of this portion of the penalty assessment. The Commission concludes that mitigation of this penalty is appropriate.

14 It is so ordered.

Dated at Olympia, Washington, and effective December 4, 2006.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

CAROLE J. WASHBURN
Executive Secretary

² It is unclear in which document Chinook requested installment payments. No request for installment payments was included in the initial request for hearing or in the document filed October 25, 2006. Moreover, Chinook made a lump sum payment of the majority of the penalty assessment.