

SERVICE DATE

JUL 11 2012

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

*Received by
Bycx Railroad on
July 22, 2012*

RECEIVED

AUG 05 2012

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT: TR-120876

PENALTY AMOUNT: \$1,900

BATTLE GROUND, YACOLT, & CHELATCHIE
PRAIRIE RAILROAD ASSOCIATION
PO BOX 1271
BATTLE GROUND, WA 98604

According to the Commission's records, you have committed a violation of Commission rule: Washington Administrative Code (WAC) 480-62-300, which requires railroad companies to file annual reports with the Commission by May 1 each year and pay regulatory fees annually on that date. You are classified as a railroad company. Commission records show that you did not file an annual report or pay annual regulatory fees by May 1, 2012.

Revised Code of Washington (RCW) 81.04.405 authorizes the Commission to assess penalties of \$100 for violations of Commission rules. Each and every such violation shall be a separate and distinct offense and, in the case of a continuing violation, every day's continuance shall be and be deemed to be a separate and distinct violation. The Commission interprets noncompliance with WAC 480-62-300 as continuing violations, giving rise to penalties of \$100 for each day a company fails to make each requisite filing after the date on which it was due.

As a result, the Commission hereby notifies you that it has assessed penalties against you in the amount of \$1,900 on the following basis:

On February 29, 2012, the Commission mailed 2011 Annual Report forms and 2012 Regulatory Fee packets to all railroad companies registered in Washington state. A letter from the commission's Executive Secretary David W. Danner, instructed these companies to file annual reports and pay regulatory fees by May 1, 2012. The letter stated failure to file the annual report by May 1 would result in a penalty and possible cancellation of the company's permit to operate in Washington. Those companies wishing to request an extension to file the annual report were asked to do so prior to April 24, providing a reason for the requested extension. You did not request an extension.

Battle Ground, Yacolt, & Chelatchie Prairie Railroad Association filed its annual report on May 29, 2012, which is 19 business days past the deadline of May 1. The penalty is \$100 per day for a total of \$1,900.

Your penalty is due and payable now. If you believe the violation did not occur, you may request a hearing to contest the penalty assessment. If there is a reason for the violation that you think

RECEIVED
MANAGEMENT
AUG - 6 2012

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.

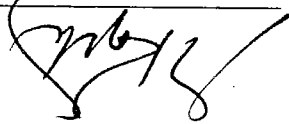
You must act within 15 days after receiving this notice to do one of the following:

- 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.

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 will then sue you to collect the penalty.

DATED at Olympia, Washington, and effective July 11, 2012.



GREGORY J. KOFTA

Administrative Law Judge

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TR-120876

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.

RECEIVED
RECORDS MANAGEMENT
AUG - 6 AM 11:40
STATE OF WASHINGTON
UTIL. AND TRANSPORTATION
COMMISSION

1. **Payment of penalty.** I admit that the violations occurred. I have:

Enclosed \$1,900 in payment of the penalty

Submitted my payment of \$1,900 online at www.utc.wa.gov. My confirmation number is _____.

2. **Request for a hearing.** I believe that one or more of the alleged violations 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 violations, but I believe that the penalty should be reduced for the reason(s) set out below.

1) The only copy of the required forms was received via electronic means on the day notification of violation occurred and I called your office. 2) The State of Washington Utilities and Transportation Commission was remiss in their duty to notify us within a reasonable length of time (14 business days) We should have been notified within 5 days. 3) The penalty should be reduced to an amount that reflects the time delay reflected by the Commission of delinquency. The time should have been no more than 5 days. I have requested that the fine be reduced to \$500.00.

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: Aug. 1, 2012 [month/day/year], at Battle Ground, WA [city, state]

Battle Ground, Yacolt & Chelatchie Tribals Name of Respondent (company) – please print
Jamara K. Luberg Signature of Applicant

Notification of the payment amount was received July 25, 2012.

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.”

Should be reduced to an amount that reflects the time delay reflected by the Commission of delinquency. The time should have been no more than 5 days. I have requested that the fine be reduced to \$500.00.