

**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

ORDER 03

IMPOSING SUSPENDED PENALTY

**BACKGROUND**

- 1 On November 14, 2018, the Washington Utilities and Transportation Commission (Commission) entered Order 02, Stipulated Initial Order Classifying Respondent as a Charter Party or Excursion Service Carrier; Ordering Respondent to Cease & Desist; Imposing and Suspending Penalties on Condition of Future Compliance (Order 02). Order 02 required Duane Coggins, d/b/a Kokopelli's Run, (Kokopelli's Run or Company) to cease and desist operating as a charter party and excursion service carrier and imposed a fine of \$10,000 for two violations of RCW 81.70, all but \$2,500 of which was suspended for a period of two years conditioned on the Company: (1) permanently refraining from operating as a charter party and excursion service carrier without first obtaining a certificate from the Commission, (2) complying with all applicable statutes and Commission rules, and (3) paying the \$2,500 portion of the penalty that was not suspended pursuant to the payment plan approved by Order 02. On August 13, 2019, Kokopelli's Run paid the \$2,500 portion of the penalty that was not suspended in full.
- 2 On April 10, 2020, Kokopelli's Run filed with the Commission a request to voluntarily cancel its certificate due to the economic downturn created by the COVID-19 pandemic. That same day, the Commission issued a letter confirming that Kokopelli's Run's certificate was canceled and reminding the Company that it must cease and desist all operations associated with its certificate.
- 3 On October 15, 2020, Staff filed with the Commission a Motion to Impose Suspended Penalties (Motion). In its Motion, Staff alleges that Kokopelli's Run continues to operate as a charter party and excursion service carrier without the required certificate by advertising and offering to provide those services. Staff recommends the Commission impose the remaining \$7,500 suspended portion of the penalty for failing to comply with the conditions in Order 02.

4 On October 26, 2020, the Commission issued a Notice of Opportunity to Respond and Notice of Opportunity to Request a Hearing (Notice). The Notice gave the Company until October 30, 2020, to submit a written response or request a hearing to contest Staff's allegations.

5 On October 30, 2020, Kokopelli's Run filed a response to Staff's Motion. Kokopelli's Run does not dispute that it violated Order 02 by continuing to operate as a charter party and excursion service carrier after voluntarily cancelling its certificate. The Company requests the Commission allow it to pay the suspended penalty in installments and explains that it intends to seek reinstatement of its certificate in the near future.

### **DISCUSSION AND DECISION**

6 We find that Kokopelli's Run violated the conditions of Order 02 and impose the \$7,500 suspended portion of the penalty.

7 RCW 81.70.020(1) defines "charter party carrier" as any person "engaged in the transportation over any public highways of this state of a group of persons who, pursuant to a common purpose and under a single contract, acquire the use of a motor vehicle to travel together as a group to a specified destination or for a particular itinerary, either agreed upon in advance or modified by the chartered group after leaving the place of origin." Under RCW 81.70.220, a person operates as a charter party carrier by providing charter party service, or by advertising or soliciting, offering, or entering into an agreement to provide such service.

8 Staff provided evidence that Kokopelli's Run is engaging in the business of a charter party and excursion service carrier by advertising and offering those services. The Company concedes that it violated Order 02 by operating as a charter party and excursion carrier without a certificate. Because the Company has failed to fulfill the conditions under which the Commission suspended \$7,500 of the assessed penalty, that penalty amount is now due and payable.

9 In light of the current economic downturn, however, we exercise our discretion to allow Kokopelli's Run to pay the penalty in 30 monthly installments of \$250 each, the first of which will be due on December 1, 2020. Kokopelli's Run must make its monthly payment on the first day of each month, or the first business day thereafter, until the entire \$7,500 penalty is paid in full, according to the following schedule:

Installment	Due Date	Amount
1	December 1, 2020	\$250
2	January 1, 2021	\$250
3	February 1, 2021	\$250
4	March 1, 2021	\$250
5	April 1, 2021	\$250
6	May 3, 2021	\$250
7	June 1, 2021	\$250
8	July 1, 2021	\$250
9	August 2, 2021	\$250
10	September 1, 2021	\$250
11	October 1, 2021	\$250
12	November 1, 2021	\$250
13	December 1, 2021	\$250
14	January 3, 2022	\$250
15	February 1, 2022	\$250
16	March 1, 2022	\$250
17	April 1, 2022	\$250
18	May 2, 2022	\$250
19	June 1, 2022	\$250
20	July 1, 2022	\$250
21	August 1, 2022	\$250
22	September 1, 2022	\$250
23	October 3, 2022	\$250
24	November 1, 2022	\$250
25	December 1, 2022	\$250
26	January 2, 2023	\$250
27	February 1, 2023	\$250
28	March 1, 2023	\$250
29	April 3, 2023	\$250
30	May 1, 2023	\$250

If Kokopelli's Run fails to pay any installment by the due date, the entire balance will immediately become due and payable. Kokopelli's Run may make additional payments in the advance of the payment due dates or may pay an increased amount on the due date, but no additional payment or increased amount will relieve the Company of its obligation to make its timely monthly installment until the full amount of \$7,500 is satisfied. Kokopelli's Run may seek reinstatement of its certificate at any time. The payment arrangement approved by this Order will not impact the Commission's evaluation of the Company's application for reinstatement provided the Company is complying with the terms of the payment arrangement.

**ORDER**

THE COMMISSION ORDERS That

- 10 (1) Duane Coggins, d/b/a Kokopelli's Run, has not complied with the conditions under which the Commission suspended \$7,500 of the \$10,000 penalty assessment.
- 11 (2) The full \$7,500 suspended penalty is now due and payable according to the payment schedule approved by this Order and the terms described in paragraph 9, above.

DATED at Lacey, Washington, and effective November 13, 2020.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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