

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT NO: TR-040100

PENALTY AMOUNT: \$ 100.00

RAILROAD COMPANY:

Tri-City and Olympia Railroad
3100 George Washington Way
Richland, WA 99352

The Commission believes that you have committed one or more violations of Washington Utilities and Transportation rules; specifically WAC 480-62-300, which requires railroad companies to file annual reports with the Commission no later than May 1 each year. Despite repeated notice of this obligation, you did not file an annual report until July 21, 2003. As a result, the Commission hereby notifies you that it has assessed penalties against you in the amount of \$100.00. The basis for this penalty assessment is as follows:

On March 18, 2003, the Commission mailed 2002 Annual Report forms and 2003 Regulatory Fee packets to regulated railroad companies in Washington State. A letter signed by Carole Washburn instructed companies to file annual reports by May 1, 2003. Companies requesting an extension were asked to do so prior to May 1, providing a reason for the requested extension (Appendix A).

On June 9, 2003, a letter signed by Carole Washburn was sent to each railroad company that had not filed an annual report by May 1, 2003. The letter stated that Staff intended to recommend enforcement action, including possible penalties, for any company that failed to file a completed annual report (Appendix B). Subsequently, Tri-City and Olympia Railroad filed the 2002 annual report on July 21, 2003.

In the course of the investigation, Staff's review of the Company's records found that Tri-City did not file an annual report for 2001.

Penalties are due and payable upon receipt of this penalty notice. If for any reason you believe the violations described did not occur, you may request a hearing to contest the occurrence of the violations. If you have an explanation as to why the violations occurred, or have other facts you believe the Commission should have considered, RCW 80.04.405 provides that you may make application for mitigation of this penalty. To do so, complete the enclosed mitigation form and return it to the Washington

Utilities and Transportation Commission, Post Office Box 47250, Olympia, Washington 98504-7250, within FIFTEEN (15) days of your receipt of this penalty notice. You may, although you are not required to, present your request for mitigation at a hearing. The Commission will consider your plea and notify you of its determination.

If you would like a hearing to contest either the occurrence of the violations or the amount of the penalty, you may request one in your request for hearing or mitigation. If you request a hearing for either reason, please state why you believe a hearing is called for in your circumstances.

Failure to request a hearing to contest the occurrence of the violations or the amount of the penalty, return the mitigation plea, or pay the amount due within 15 days will cause the Commission to refer this matter to the Office of the Attorney General for collection. Suit may then be brought against you and after trial, judgment may be entered against you.

DATED at Olympia, Washington and effective this 5th day of February 2004.


MARILYN SHOWALTER, Chairwoman


RICHARD HEMSTAD, Commissioner


PATRICK OSHIE, Commissioner

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

APPLICATION FOR MITIGATION OF PENALTIES

I have read and understand RCW 9.72.030, which prescribes penalties for making false affidavits (printed below), and hereby make, under oath, application for mitigation of the penalties (as described on the attached form), for the following reasons:

NOTE: This form must be completed, signed and notarized, and received by the Commission within 15 days of your receipt of this form.

I swear that the foregoing is a true and complete statement of the facts in this case.

Signature of Applicant

Sworn to and subscribed before me
this ____ day of _____,
20__

NOTARY PUBLIC in and for the
State of Washington, residing in

RCW 9.72.030:

"Perjury-Second Degree: Every person who, whether orally or in writing, and whether as a volunteer or in a proceeding or investigation authorized by law, shall knowingly swear falsely concerning any matter whatsoever shall be guilty of perjury in the second degree and shall be punished by imprisonment in the state penitentiary for not more than five years or by imprisonment in the county jail for not more than one year."