



STATE OF WASHINGTON

UTILITIES AND TRANSPORTATION COMMISSION

1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250

(360) 664-1160 • TTY (360) 586-8203

December 14, 2017

Steven V. King, Executive Director and Secretary
Utilities and Transportation Commission
1300 S. Evergreen Park Dr. SW
P.O. Box 47250
Olympia, WA 98504-7250

RE: *Washington Utilities and Transportation Commission v. Washington & Idaho Railway Inc.*

Commission Staff's Letter Reporting Non-Compliance TR-143978

Dear Mr. King:

On September 9, 2015, the Utilities and Transportation Commission issued an order requiring Washington & Idaho Railway Inc. to pay a \$136,000 penalty in Docket TR-143978 for 1,360 violations of Washington Administrative Code (WAC 480-62-300), which requires railroad companies to furnish annual reports and pay the regulatory fee to the commission no later than May 1 each year.

Washington & Idaho Railway Inc. had the option to have \$102,000 of the \$136,000 penalty suspended on the conditions that: (1) Washington & Idaho Railway Inc. file its complete annual report and pay its required regulatory fees no later than May 1, 2016, for the 2015 reporting year, and no later than May 1, 2017, for the 2016 reporting year; and (2) pay the \$34,000 portion of the penalty and outstanding regulatory fees of \$50,869.81 in accordance with the payment plan ordered.

According to commission records, on November 22, 2016, the penalty portion of \$34,000 and outstanding regulatory fees of \$50,869.81 were paid off in accordance with Orders 01 and 02.

Regarding the first condition, staff review shows that Washington & Idaho Railway Inc. filed the 2015 annual report and paid its regulatory fee by May 1, 2016.

Washington & Idaho Railway Inc. failed to file its annual report for 2016 and pay the requisite fees by May 1, 2017, nor by the first business day thereafter. Instead the annual report was received on June 20, 2017, with penalty interest noted on the report form. The company received a \$1,000 penalty assessment (docket TR-170562) for failing to file the annual report by May 1. The company paid the \$1,000 penalty on November 2, 2017, and did not apply for mitigation, nor request a hearing.

Commission staff spoke with the company regarding the late annual report and regulatory fee. The company explained that it experienced cashflow issues around the May 1 and submitted the annual report as soon as they were able to pay the regulatory fee. Commission staff advised the company that it is the company's responsibility to ensure it pays the regulatory fee and files the annual report by May 1 of each year. Washington & Idaho Railway Inc. apologized for the delay and assured staff that the company will meet its reporting and financial obligations in the future.

Although not all the conditions were met, the company ultimately paid their initial penalty and outstanding regulatory fees, filed their annual reports, and plans to meet its reporting and financial obligations in the future. In order to ensure ongoing compliance, staff's recommendation is that the \$102,000 suspended portion of the penalty be further suspended on the condition that the company files its complete 2017 annual report and pays its required regulatory fees no later than May 1, 2018.

If you have any questions regarding this recommendation, please contact Sean Bennett, Regulatory Analyst, at (360) 664-1228, or benjamin.sharbono@utc.wa.gov.

Sincerely,

/s/ Benjamin Sharbono

Benjamin Sharbono, Regulatory Analyst
Regulatory Services, Annual Reports