August 10, 2012

David W. Danner, Executive Director and Secretary

Washington Utilities and Transportation Commission

1300 S. Evergreen Park Dr. SW

P. O. Box 47250

Olympia, Washington 98504-7250

RE: *Washington Utilities and Transportation Commission v. Battle Ground, Yacolt, & Chelatchie Prairie Railroad Association*

Commission Staff’s Response to Application for Mitigation of Penalties

Docket TR-120876

Dear Mr. Danner:

On July 11, 2012, the Washington Utilities and Transportation Commission issued a $1,900 Penalty Assessment in Docket TR-120876 against Battle Ground, Yacolt, & Chelatchie Prairie Railroad Association for 19 violations of Washington Administrative Code (WAC) 480-62-300, which requires regulated railroad companies to furnish annual reports to the commission no later than May 1 each year.

On August 3, 2012[[1]](#footnote-1), Battle Ground, Yacolt, & Chelatchie Prairie Railroad Association wrote the commission requesting mitigation of penalties (Mitigation Request). In its Mitigation Request, Battle Ground, Yacolt, & Chelatchie Prairie Railroad Association does not dispute that the violation occurred. The company states, “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 duties to notify us within a reasonable length of time (19 business days) We should have been notified within 5 days. 3. The penalty should be reduced to an amount that reflects filling out the forms on the same the day as notified by the commission of delinquent, that time should have been no more than five days. There we request that the fine be reduced to $500.00.”

It is the company’s responsibility to ensure that the regulatory fee and the annual report are filed by the May 1 deadline. On February 29, 2012[[2]](#footnote-2), Annual Report forms and Regulatory Fee packets were mailed to all regulated regulated railroad companies. In addition to other information, the cover letter informed the regulated company it must complete the annual report form, pay any regulatory fees and return the material by May 1, 2012 to avoid enforcement action. On May 14, 2012[[3]](#footnote-3), the commission mailed a letter to those companies that had not yet filed an annual report notifying them that, to date, they had incurred a penalty of $800. The letter went on to explain that companies who filed their annual reports no later than May 25, 2012, would receive mitigated penalties of $25 per day, with an additional $25 per day for each instance in the previous five years that the company received a penalty for filing a late report.

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, 2012. The penalty is $100 per day for a total of $1,900. Battle Ground, Yacolt, & Chelatchie Prairie Railroad Association became regulated in 2001 and received a penalty of $100, in 2009 for filing a delinquent annual report.

Based on the company’s delinquent annual report filling in the past, staff does not support mitigating the assessed penalty and recommends the request be denied.

If you have any questions, please contact Mathew Perkinson, Compliance Investigator, at (360) 664-1105, or at Mperkinson@utc.wa.gov.

Sincerely,

Sharon Wallace, Assistant Director

Consumer Protection and Communications

**Attachment A**





**Attachment B**

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**Attachment C**



1. See attachment A for a copy of Battle Ground, Yacolt, & Chelatchie Prairie Railroad Association’s Mitigation Request. [↑](#footnote-ref-1)
2. See attachment B for a copy of the letter sent to all regulated companies on February 29, 2012. [↑](#footnote-ref-2)
3. See attachment C for a copy of the enforcement letter sent to the company on May 14, 2012. [↑](#footnote-ref-3)