

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

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

**PENALTY ASSESSMENT: TE-170615  
PENALTY AMOUNT: \$1000**

Exploration Coach Lines LLC  
PO Box 190  
Rochester, WA 98579

According to Washington Utilities and Transportation Commission (Commission) records, you have violated Washington Administrative Code (WAC) 480-30-071 and 480-30-076, which requires charter and excursion carriers companies to file their annual report and pay regulatory fees each year by May 1. You did not file a complete annual report by May 1, 2017.

Revised Code of Washington (RCW) 81.04.405 authorizes the Commission to assess a penalty of \$100 for each violation of a Commission rule. In the case of a continuing violation, every day's continuance is a separate and distinct violation. The Commission interprets noncompliance with WAC 480-30-071 and 480-30-076 beyond May 1 as a continuing violation, and assesses penalties of \$100 for each day a company fails to file its complete report or pay its regulatory fees after that date.

As a result, the Commission has assessed penalties against you in the amount of \$1000 on the following basis:

On February 28, 2017, the Commission sent the 2016 annual report forms and the 2017 regulatory fee packets to all charter and excursion carriers companies registered in Washington. The instructions page for the annual report form instructed these companies to file complete annual reports and pay regulatory fees by May 1, 2017. The instructions page also stated that failure to file the complete annual report by May 1 would result in penalties. The deadline for requesting an extension to file your annual report was April 15. You did not request an extension.

On Monday, June 5, 2017, Exploration Coach Lines LLC filed its complete 2016 annual report and paid its 2017 regulatory fee. June 5 is more than 10 business days from May 1, resulting in a total penalty of \$1,000.

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. The Commission will grant that request only if material issues of law or fact require consideration of evidence and resolution in a hearing. A request for a hearing must include a written statement of the reasons supporting that request. Failure to provide such a statement will result in denial of the request.

If there is a reason for the violation that you think should excuse or reduce the penalty, you may ask for mitigation (reduction) of this penalty through evidence presented at a hearing or in writing. The Commission will grant a request for a hearing only if material issues of law or fact require consideration of evidence and resolution in a hearing. Any request for mitigation must include a written statement of the reasons supporting that request. Failure to provide such a statement will result in denial of the request. See RCW 81.04.405.

The Commission will only grant requests for mitigation if the violations occurred due to circumstances beyond your control. Such circumstances include, but are not limited to: death or serious illness of the person responsible for filing the report, or a member of that person's immediate family; destruction by fire or other casualty of your place of business or business records; or an act of fraud, embezzlement, theft, or conversion on the part of your employee.

The following are examples of circumstances that are **not** considered to be beyond your control, and thus are not acceptable bases for requesting mitigation: financial hardship; a misunderstanding or lack of knowledge of Commission rules; failure to receive an annual report form from the Commission; mistakes or misconduct on the part of your employees; employee termination or turnover; personal events such as weddings or graduation ceremonies; and vacations or business trips.

If you properly present your request for a hearing and the Commission grants that request, the Commission will review the evidence supporting your dispute of the violation or application for mitigation in a Brief Adjudicative Proceeding, before an administrative law judge. The administrative law judge will consider the evidence and will 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 \$1000 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 file it with the Washington Utilities and Transportation Commission at: <https://www.utc.wa.gov/docs/Pages/ElectronicFiling.aspx>, **within FIFTEEN (15) days** of receiving this electronic notice.

**If you do not act within 15 days**, the Commission may refer this matter to the Office of the Attorney General for collection, which may file suit in state court to collect the penalty. The Commission may also initiate proceedings under WAC 480-30-171 to revoke your authority to provide charter & excursion services in Washington.

DATED at Olympia, Washington, and effective June 19, 2017.

/s/ Gregory J. Kopta  
GREGORY J. KOPTA  
Administrative Law Judge

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT TE-170615

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.

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

[ ] Enclosed \$ \_\_\_\_\_ in payment of the penalty

[ ] Submitted my payment of \$ \_\_\_\_\_ online at www.utc.wa.gov. My confirmation number is \_\_\_\_\_.

[X] 2. Contest the violation. I believe that one or more of the alleged violations did not occur, for the reasons I describe below (if you do not include reasons supporting your contest of the violations here, your request will be denied):

See Attached

[X] a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision

OR

[ ] b) I ask for a Commission decision based solely on the information I provide above.

[ ] 3. Application for mitigation. I admit the violations, but I believe that the penalty should be reduced because the violations occurred due to circumstances beyond my control, as explained below (if you do not include reasons that support your application for mitigation here, your request will be denied):

[ ] a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision

OR

[ ] b) I ask for a Commission decision based solely on the information I provide above.



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DATED at Olympia, Washington, and effective June 19, 2017.

/s/ Gregory J. Kopta  
GREGORY J. KOPTA  
Administrative Law Judge

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: 7-3-17 [month/day/year], at Rochester, Wa [city, state]

Ben A Dolph  
Name of Respondent (company) – please print

Ben A. Dolph  
Signature of Applicant

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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.”

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**Subject: Utilities and Transportation Commission – 232 Annual Reports Distribution CRM:0003772**

**From: "Document Service Queue" <recordscenter@utc.wa.gov>**

**Date: Tue, Feb 28, 2017 6:10 pm**

**To: "Exploration Coach Lines LLC" <ben@explorationcoachlines.com>**

Dear Regulated Company:

The Utilities and Transportation Commission has traditionally mailed hard copies of annual report forms to regulated companies annually. Beginning this year, the commission will no longer mail annual report forms, instead you will be sent a link to your industry's annual report form via email. This change has been implemented to simplify the process and reduce the cost of sending a physical annual report.

2016 annual reports and regulatory fees must be received and paid by May 1, 2017. Failure to file a complete annual report by the deadline will result in a financial penalty of \$100 for each business day your report is delinquent beginning May 2.

This is the only notice you will receive from the commission.

To file your annual report, [click here](#). This link will take you to the annual reports page on the UTC website.

The annual reports web page will allow you to:

- Obtain electronic versions (PDF or excel) of annual regulatory fee report forms;
- Pay regulatory fees;
- File your report electronically; and
- Review the Annual Report FAQ's document.

#### **Charter and Excursion Companies**

The annual reports for the charter industry can be found below. Save the applicable annual report to your computer.

- Charter and Excursion annual report form can be found [here](#)

The commission is collecting current email addresses from all regulated companies for official commission or staff correspondence. Communications may include, but are not limited to, electronic service of commission orders, rule changes, annual report distribution, and emergency notifications. If you would like to update your official email address, please forward this message with your preferred email address to [records@utc.wa.gov](mailto:records@utc.wa.gov) and add your registered company name in the subject line.

If you have any questions regarding the annual report process, please contact Sean Bennett at (360) 664-1157 or [sbennett@utc.wa.gov](mailto:sbennett@utc.wa.gov). If you need this information in an alternate format, please call (360) 664-1133. TTY toll free phone number is (800) 416-5289.

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Logged in as [ben@explorationcoachlines.com](#) [Log Out](#)

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**Subject:** [ben@explorationcoachlines.com](#)  
**From:** <ben@explorationcoachlines.com> [\(Add as Preferred Sender\)](#)  
**Date:** Thu, Apr 27, 2017 1:53 pm  
**To:** sbnnett@ulc.wa.gov

2016 annual report.

Ben Dolph, CEO  
Exploration Coach Lines  
PO Box 190  
Rochester, WA 98579

360-262-6278 Direct  
1-844-428-7868

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**Subject:** Exploration Coach Lines LLC  
**From:** ben@explorationcoachlines.com  
**Date:** Thu, Apr 27, 2017 1:53 pm  
**To:** sbnnett@utc.wa.gov

2016 annual report.

Ben Dolph, CEO  
Exploration Coach Lines  
PO Box 190  
Rochester, WA 98579

360-262-6278 Direct  
1-844-428-7868

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Attachment page 1

Washington Utilities and Transportation Commission

Re: Penalty Assessment: TE-170615

Request to contest the alleged violation

On June 20<sup>th</sup>, 2017 Washington UTC served a Notice of Penalties via email stating that Exploration Coach Lines LLC was being assessed a \$1000.00 penalty for not filing their annual report by May 1<sup>st</sup>, 2017.

Exploration Coach Lines LLC did receive an email February 28<sup>th</sup>, 2017 from records service [center@utc.wa.gov](mailto:center@utc.wa.gov) which contained information regarding the 2016 annual report and a link to obtain that report. In addition it listed the following information

*If you have any questions regarding the annual report process, please contact Sean Bennett at (360) 664-1157 or [sbennett@utc.wa.gov](mailto:sbennett@utc.wa.gov).*

Between February 28<sup>th</sup> and April 27<sup>th</sup>, 2017, I proceeded to the link and managed to print the forms to fill out (this can be confirmed through a public records search of clicks and visits to the site). Not being very computer literate, I reached out to Mr Bennett on how to upload the files to the site. I explained I was being called to Alaska with short notice and was attempting to make sure all was in order before departing. Mr Bennett said to email directly to him and he would make sure it went in.

On April 27<sup>th</sup> (see attached copies of the email) the report was sent to Mr Bennett's email address above. It was from Exploration Coach Lines LLL and inside is stated "2016 annual report".

Towards the end of May I became concerned that I may have overlooked sending in the \$50.00 payment for this report or it may have gone astray in the mail system. I requested that my senior driver Mr Harold Peery stop into the UTC office to confirm the receipt of that payment. Mr Peery called me and stated that your staff member at the front desk confirmed the report had been filed, but could not locate a payment. The employee responsible for this information was not available and they suggested he pay another \$50.00 just in case. If it was paid twice, they would send a refund. Mr Peery paid this and was told everything was fine and he left the UTC office.

Mr Perry latter received a call from UTC stating that after researching this further, they could not locate the hard copy of the original report that their system showed as received. They requested that Mr Peery return to the office and obtain a copy of this original report and bring it back into the staff of UTC, which he did. At that time, he was told they now could but it back into the system.

Exploration Coach Lines did not receive any further correspondence with Washington UTC about this issue until receiving a fine on June 20th stating the report was not filed until June 5<sup>th</sup>, the date your staff asked him to return a duplicate of the original filing made April 27<sup>th</sup>, 2017.

Our report was filed on time April 27<sup>th</sup>, 2017. Mr Bennett has confirmed receiving the attached email. He is now stating nothing was attached. It is Mr Bennett's fiduciary duty as an agent representing the State of Washington to provide the highest standard of care. This means if he is expecting a report from a member of the public he serves and sees no report attached, it is Mr Bennett's fiduciary duty to respond to the sender stating no attachment came through. Mr Bennett has stated he had no further conversations with any staff members of Exploration Coach Lines LLC following receipt of the attached email in April. By doing this he has in fact acknowledged through these actions that the Exploration Coach Lines LLC 2016 annual report has been received and filed.

The staff members of Washington UTC themselves even reported that the annual report for Exploration Coach Lines LLC in their records showed it was filed in a timely fashion. They simply could not locate it when they went to find it after we graciously offered to pay the fee again, just in case as a safety measure. Everything indicates the report was filed on time. I cannot conclude yet that the \$50.00 payment was made at the same time. Our bookkeeper is still updating our system, so I have not been able to check and see if another payment of \$50.00 was made in April.

The report shows it was originally filed June 5<sup>th</sup>, simply because your staff members could not locate the hard copy of the original and asked us to provide it to them. They then entered the original one filed April 27<sup>th</sup>, 2016 on the June 5<sup>th</sup> date into the system again.

As such we should not have any penalty for filing late, because the report was original filed before May 1<sup>st</sup>, 2017.

Thank you