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Washington Utilities
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Commission

TG-230504

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Any questions can be directed to Accounts Receivable, 360-664-1349

Sara Campbell

From: Hoxit, Jason (UTC) <jason.hoxit@utc.wa.gov>
Sent: Wednesday, July 12, 2023 11:36 AM
To: Sara Campbell
Cc: Sharp, Jason (UTC); Yeomans, Sandra (UTC); Records Management (UTC)
Subject: RE: Weekly Opened Report for 7/3/2023
Attachments: TG-230504 POS.pdf; TG-230504 - Notice of Penalties - Sanitary Service Company Inc.pdf

Hi Sara,

It appears that on July 7 our Records Center electronically served sarac@ssc-inc.com instead of the email address that is on file of sarac@ssc-inc.com. I have attached both the Notice of Penalties and Proof of Service to this email. Please let me know if you have any questions.

Thank you,

Jason Hoxit
Compliance Investigator
(360) 867-8305

Utilities and Transportation Commission

Respect. Professionalism. Integrity. Accountability.

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This email/letter states the informal opinions of commission staff, offered as technical assistance, and are not intended as legal advice. We reserve the right to amend these opinions should circumstances change or additional information be brought to our attention. Staff's opinions are not binding on the commission.

From: Sara Campbell <sarac@ssc-inc.com>
Sent: Wednesday, July 12, 2023 11:27 AM
To: Hoxit, Jason (UTC) <jason.hoxit@utc.wa.gov>
Subject: Weekly Opened Report for 7/3/2023

External Email

Hi Jason,

We are listed in the attached opened report for penalty assessment so I reached out to Sandi Yeomans and she recommended I contact you for more information. We are not aware of any penalties that have been assessed.

Docket #	Company Name	Filing Type	Description of Filing	Opened
227	Solid Waste			
230504	Sanitary Service Company, Inc.	Assessment (penalty)	Staff investigation to determine if company is in violation of WAC 480-70-201, Vehicle and Driver Safety Requirements.	6/23/2023

Thank you,
Sara



Sara Campbell, CPA, MAcct
Controller & HR

Sanitary Service Company Inc.

21 Bellwether Way Suite 404 • Bellingham, WA 98225
Office 360-527-9783 • Cell 360-961-6290

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT: TG-230504
PENALTY AMOUNT: \$100

Sanitary Service Company, Inc.
P.O. Box 1702
Bellingham, WA 98227

The Washington Utilities and Transportation Commission (Commission) believes Sanitary Service Company, Inc., (SSC or Company) violated Washington Administrative Code (WAC) 480-70-201, Vehicle and Driver Safety Requirements, which adopts Title 49 Code of Federal Regulations (49 C.F.R.) Part 393 – Parts and Accessories Necessary for Safe Operation.

Revised Code of Washington (RCW) 81.04.405 allows penalties of \$100 for each violation. In the case of an ongoing violation, every day's continuance is considered a separate and distinct violation.

On June 21, 2023, Commission Motor Carrier Investigator Sandra Yeomans completed a routine safety investigation of SSC and documented the following violation:

- **One violation of 49 C.F.R. § 393.51 – No or defective brake warning device or pressure gauge.** Commission staff (Staff) discovered a commercial motor vehicle (CMV) with a defective brake warning device. This CMV was placed out-of-service.¹

The Commission considered the following factors in determining the appropriate penalties for this violation:

1. **How serious or harmful the violation is to the public.** The violation noted is serious and potentially harmful to the public. Solid waste collection companies operating CMVs with defective brake warning devices put the traveling public at risk. This violation presents a safety concern.
2. **Whether the violation was intentional.** Considerations include:
 - Whether the Company ignored Staff's previous technical assistance; and
 - Whether there is clear evidence through documentation or other means that shows the Company knew of and failed to correct the violation.

SSC began its operations in 1929 and has been subject to numerous safety investigations conducted by Staff. The Company knew or should have known about this requirement.

¹ Vehicle Identification Number 1CYCAB489TT042092.

however, there is no evidence to suggest SSC ignored Staff's previous technical assistance.

3. **Whether the Company self-reported the violation.** SSC did not self-report this violation.
4. **Whether the Company was cooperative and responsive.** The Company was cooperative throughout the safety investigation and made corrections as violations were discovered.
5. **Whether the Company promptly corrected the violation and remedied the impacts.** The Company corrected the violation of 49 C.F.R. § 393.51.
6. **The number of violations.** Staff identified 14 violation types with a total of 51 individual occurrences during the routine safety investigation of SSC. Of those violations, Staff identified one violation type with one occurrence that warrants a penalty in accordance with the Commission's Enforcement Policy.
7. **The number of customers affected.** SSC reported traveling 1,494,241 miles in 2022. This violation presented a public safety risk.
8. **The likelihood of recurrence.** Staff provided technical assistance with specific remedies to help the Company assess how well its safety management controls support safe operations and how to begin improving its safety performance. SSC was cooperative throughout the safety investigation and made corrections to come into compliance. Considering these factors, Staff believes the likelihood of recurrence is low.
9. **The Company's past performance regarding compliance, violations, and penalties.** On September 29, 2014, the Commission assessed a \$100 penalty against SSC in Docket TG-143565 for safety violations of WAC 480-70-201. The Company paid the penalty in full.
10. **The Company's existing compliance program.** Rodd Pemble, Safety Director of SSC, is responsible for the Company's safety compliance program.
11. **The size of the Company.** SSC employs 41 drivers and operates 63 CMVs. The Company reported \$45,179,006 in gross revenue in 2022.

The Commission's Enforcement Policy provides that some Commission requirements are so fundamental to safe operations that the Commission will issue mandatory penalties for each occurrence of a first-time violation.² The Commission generally will assess penalties by violation category, rather than per occurrence, for first-time violations of those critical regulations that do not meet the requirements for mandatory penalties. The Commission will assess penalties for any

² Docket A-120061 – Enforcement Policy of the Washington Utilities & Transportation Commission – Section V.

equipment violation meeting the Federal Motor Carrier Safety Administration's "out-of-service" criteria and for repeat violations of critical regulations, including each occurrence of a repeat violation.

The Commission has considered these factors and determined that it should penalize SSC \$100 (Penalty Assessment), calculated as follows:

- One violation of 49 C.F.R. § 393.51 – No or defective brake warning device or pressure gauge. The Commission assesses a penalty of \$100 for this out-of-service violation.

This information, if proven at a hearing and not rebutted or explained, is sufficient to support the Penalty Assessment.

Your penalty is due and payable now. If you believe the violation did not occur, you may deny committing the violation and contest the penalty through evidence presented at a hearing or in writing. Alternatively, if there is a reason for the violation that you believe should excuse you from the penalty, you may ask for mitigation (reduction) of the penalty through evidence presented at a hearing or in writing. The Commission will grant a request for hearing only if material issues of law or fact require consideration of evidence and resolution in a hearing. Any request to contest the violation or for mitigation of the penalty 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.

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 their decision.

You must act within 15 days after receiving this notice to do one of the following:

- Pay the amount due.
- Contest the occurrence of the violation.
- Admit the violation but request mitigation of the penalty amount.

Please indicate your selection on the enclosed form and submit it electronically through the Commission's web portal at <https://efiling.utc.wa.gov/Form> **within FIFTEEN (15) days** after you receive this Penalty Assessment.³ If you are unable to use the web portal, you may submit it via email to records@utc.wa.gov. If you are unable to submit the form electronically, you may send a paper copy to the Washington Utilities and Transportation Commission, PO Box 47250, Olympia, Washington 98504-7250.

³ <https://efiling.utc.wa.gov/Form>.

If you wish to make a payment online, please use this link: [Make a Payment Now \(wa.gov\)](#).⁴

If you do not act within 15 days, the Commission may take additional enforcement action, including but not necessarily limited to suspending or revoking your certificate to provide regulated service, assessing additional penalties, or referring this matter to the Office of the Attorney General for collection.

DATED at Lacey, Washington, and effective July 7, 2023.

/s/Rayne Pearson
RAYNE PEARSON
Director, Administrative Law Division

⁴ <https://www.utc.wa.gov/documents-and-proceedings/online-payments/make-payment-now>

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TG-230504

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 violation occurred.
 - Enclose \$100 in payment of the penalty.
 - OR Attest that I have paid the penalty in full through the Commission's payment portal.

- 2. **Contest the violation(s).** I believe that the alleged violation(s) did not occur for the reasons I describe below (if you do not include reasons supporting your contest 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.

- 3. **Application for mitigation.** I admit the violation, but I believe that the penalty should be reduced for the reasons set out below (if you do not include reasons supporting your application 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.

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: July 12, 2023 [month/day/year], at Bellingham WA [city, state]

SANITARY SERVICE CO INC
Name of Respondent (company) – please print

Paul G. Ryan
Signature of Applicant
President
SANITARY SERVICE CO, INC.

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 or she makes a materially false statement which he or she 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 or her 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.

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PROOF OF SERVICE

DOCKET 230504

I HEREBY CERTIFY That I, as an employee of the Washington Utilities and Transportation Commission at Lacey, Washington, have served on 7/7/2023 the parties of record in this proceeding a true copy of the following document(s):

Penalty Assessment Against Sanitary Service Company, Inc. in the Amount of \$100 for Violation of WAC 480-70-201.

The copy of the document(s) was/were sent to each of the parties of record in this docket at the address shown in the official file and listed below, by electronic mail only.

Huey,
Lorilyn (UTC)

Digitally signed by
Huey, Lorilyn (UTC)
Date: 2023.07.07
14:32:02 -07'00'

Lorilyn Huey, Forms and Records Analyst

PARTIES OF RECORD AND OTHERS RECEIVING NOTICE

NOTIFIED BY E-MAIL:

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