

Service Date: November 14, 2024

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

Received
Records Management
Nov 22, 2024

PENALTY ASSESSMENT: TN-240833

PENALTY AMOUNT: \$100

Spokane Neighborhood Action Partners
3102 W Whistalks Way
Spokane, WA 99224

The Washington Utilities and Transportation Commission (Commission) believes Spokane Neighborhood Action Partners (Spokane Neighborhood or Company) violated Washington Administrative Code (WAC) 480-31-130, Operation of Motor Vehicles, which adopts Title 49 Code of Federal Regulations (49 C.F.R.) Part 391 - Qualification of Drivers.

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 October 30, 2024, Commission Motor Carrier Safety Investigator Francine Gagne completed a routine safety inspection of Spokane Neighborhood and documented the following violations:

- **One violation of 49 C.F.R. § 391.45(a) - Using a driver not medically examined and certified.** Spokane Neighborhood allowed driver Jax Lentz to operate a motor vehicle without a valid medical certificate.

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. Private, nonprofit transportation providers who use drivers that are not medically certified put their customers and the traveling public at risk. This violation presents significant safety concerns.
2. **Whether the violation was intentional.** Considerations include:
 - Whether the Company ignored Commission staff's (Staff) 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.

Spokane Neighborhood began its operations in 1985 and received non-profit operating authority in 2019. The Company was provided technical assistance in February 2019. The Company knew or should have known about these requirements; however, there is no evidence that suggests Spokane Neighborhood ignored Staff's previous technical assistance.

3. **Whether the Company self-reported the violation.** Spokane Neighborhood did not self-report this violation.
4. **Whether the Company was cooperative and responsive.** The Company was cooperative throughout the safety investigation.
5. **Whether the Company promptly corrected the violation and remedied the impacts.** Spokane Neighborhood has not provided staff with evidence of corrections.
6. **The number of violations.** Staff identified eight violation types with a total of 21 individual occurrences during the routine safety investigation of Spokane Neighborhood. Of those violations, Staff identified one violation type with one individual occurrence that warrants a penalty in accordance with the Commission's Enforcement Policy.
7. **The number of customers affected.** Spokane Neighborhood last reported traveling 21,914 miles for 2023. This safety violation presents a public safety risk.
8. **The likelihood of recurrence.** The Company was cooperative throughout the safety investigation. Staff provided technical assistance with specific remedies the Company could use to assess how well its safety management plan operates and how to begin improving its safety performance. In light of these factors, Staff believes the likelihood of recurrence is low.
9. **The Company's past performance regarding compliance, violations, and penalties.** The Company has no history of penalties for safety violations.
10. **The Company's existing compliance program.** Kara Gunning, Safety Director, is responsible for the Company's safety compliance program.
11. **The size of the Company.** The Company employs five drivers and operates four motor vehicles. The Company reported \$13,430 in gross revenue in 2023.

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.¹ 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 equipment violation meeting the Federal Motor Carrier Safety Administration's "out-of-service" criteria and also 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 Spokane Neighborhood \$100 (Penalty Assessment), calculated as follows:

¹ Docket A-120061 – Enforcement Policy of the Washington Utilities & Transportation Commission – Section V.

- One violation of 49 C.F.R. § 391.45(a) – Using a driver not medically examined and certified. The Commission assesses a penalty of \$100 for this first-time critical-type 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.² 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.

If you wish to make a payment online, please use this link: [Make a Payment Now \(wa.gov\)](#).³

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.

² <https://efiling.utc.wa.gov/Form>.

³ <https://www.utc.wa.gov/documents-and-proceedings/online-payments/make-payment-now>

DATED at Lacey, Washington, and effective November 14, 2024.

/s/ James E. Brown II
JAMES E. BROWN II
Interim Director, Administrative Law
Division

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TN-240833

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, 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(s) 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(s), 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: 11/22/2024 [month/day/year], at Spokane, WA [City, State]

Rebecca West, Financial Controller
Name of Respondent (company) – please print


Signature of Applicant

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 they make a materially false statement which they know 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 their 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.**