

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Penalty Assessment	)	DOCKET TE-080282
Against)	
	)	ORDER 02
GENIE SERVICE COMPANY, INC.,)	
in the Amount of \$1,200	)	GRANTING STAFF MOTION TO
	)	CONSOLIDATE; GRANTING IN
	)	PART GENIE’S REQUEST TO
	)	PAY PENALTY ASSESSMENT
	)	IN INSTALLMENTS
.....)	
)	
In the Matter of Penalty Assessment	)	DOCKET TE-061753
Against)	
	)	ORDER 04
)	
GENIE SERVICE COMPANY, INC.	)	GRANTING STAFF MOTION TO
	)	CONSOLIDATE
.....)	

MEMORANDUM

1 **Proceedings:** The Washington Utilities and Transportation Commission (Commission) has issued penalty assessments against Genie Service Company, Inc. (Genie), in the last two years in Dockets TE-061753 and TE-080282. In Docket TE-061753, the Commission considered the company’s request for mitigation, and suspended half of the penalty pending the company’s performance in subsequent compliance reviews. In Docket TE-080282, the Commission assessed additional penalties after finding new violations of safety regulations.

2 **Procedural History:** On December 4, 2006, the Commission assessed a penalty against Genie in Docket TE-061753 in the amount of \$1,400 for 14

alleged violations of Washington Administrative Code (WAC) 480-30-221, which adopts by reference Title 49, CFR, including Parts 391 and 395 including requirements regarding driver qualifications and drivers' qualification files and drivers' hours of service. Revised Code of Washington (RCW) 81.04.405 allows the Commission to assess penalties of up to \$100 for every violation.

- 3 On February 27, 2007, the Commission approved a settlement agreement between Commission Staff and the company, suspending half of the assessed penalties (\$700) pending the company's compliance with these safety regulations in a subsequent compliance review.
- 4 On February 19, 2008, after Commission Staff found additional violations of safety regulations, Staff requested the Commission amend the order and impose the \$700 in suspended penalties. The Commission granted Staff's motion and imposed the suspended penalties in Order 03 in that docket, entered on May 23, 2008. In that Order, the Commission noted that the company had not yet paid the initial \$700 portion of the penalty, and required Genie to pay the full \$1,400 amount within seven days of the order date. Genie has not yet paid the penalty.
- 5 On February 22, 2008, the Commission assessed a penalty against Genie in Docket TE-080282 in the amount of \$1,200 for 12 alleged violations of WAC 480-30-221, including violations of regulations concerning driver qualifications and drivers' qualification files and drivers' hours of service. The notice of penalty assessment informed Genie that the company had 15 days to pay the penalty, request a hearing, or request mitigation.
- 6 Genie did not timely respond to the notice. On May 14, 2008, the Commission entered Order 02 denying mitigation and requiring Genie to pay the \$1,200 penalty within seven days of the date of the Order.
- 7 **Request for Installment Payment of Penalty Assessment:** On May 29, 2008, Genie filed a request to pay the penalty assessment in Docket TE-080282 in three equal monthly payments of \$400 each.

- 8 **Staff Response and Request for Consolidation:** On June 6, 2008, Commission Staff filed a response, supporting the use of a payment plan, requesting the Commission consolidate the two penalty assessment dockets to establish a single payment plan, and requesting the Commission extend the deadline for payment of the penalties in both dockets for seven months to streamline payment of the penalties.
- 9 **Decision:** The Commission grants in part the company's request to discharge the penalty assessment in installments. The Commission also grants the Staff's motion to consolidate the two dockets to establish a single payment plan for the unpaid penalties in both dockets. The Commission has discretion to consolidate two or more proceedings where the facts or principles of law are related. *WAC 480-07-320*. The facts and law in these two proceedings are related; the same company owes penalties to the Commission in two dockets.
- 10 Although Genie has failed to timely pay the amounts due under either penalty assessment, we find the parties' solution for a consolidated payment plan an appropriate way for Genie to comply with payment of Commission ordered penalties, given its status as a small business. Allowing the company to pay the amounts due under a consolidated payment plan conserves the Commission's resources by avoiding Staff time spent in pursuing collection of the amounts due.
- 11 The company and Staff must file with the Commission within 15 days of the service date of this Order a formal payment plan to pay the \$2600 due under the two dockets between the service date of this Order and December 31, 2008. Any failure by Genie to comply with the terms of the payment plan may result in Commission action to cancel the company's operating authority. *See RCW 81.70.250(2).*¹
- 12 It is so ordered.

- 13 The Commissioners have delegated authority to the Executive Secretary to enter this Order pursuant to RCW 80.01.030 and WAC 480-07-905(1) (h).

Dated at Olympia, Washington, and effective June 10, 2008.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER
Executive Director and Secretary

NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-07-870.

¹ This Order addresses only the outstanding issue of Genie's unpaid penalties. This Order does not address the Commission's intent expressed in Order 01 in Docket TE-080282 to initiate a proceeding to consider whether to suspend Genie's certificate for cause under WAC 480-07-141.