WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

PENALTY ASSESSMENT NO: TR-051797
PENALTY AMOUNT: $ 100.00

RAILROAD COMPANY:
Ballard Terminal Railroad Company
4725 Ballard Avenue Northwest
Seattle, Washington 98107-4810

The Commission believes that you have committed one or more violations of Washington Utilities and Transportation rules; specifically WAC 480-62-300, which requires railroad companies to file annual reports with the Commission no later than May 1 each year. Despite repeated notice of this obligation, you have not filed an annual report for 2004. As a result, the Commission hereby notifies you that it has assessed penalties against you in the amount of $100.00. The basis for this penalty assessment is as follows:

On March 9, 2005, the Commission mailed 2004 Annual Report forms and 2005 Regulatory Fee packets to regulated railroad companies in Washington State. A letter signed by Carole Washburn instructed companies to file annual reports by May 1, 2005. Companies requesting an extension were asked to do so prior to May 1, providing a reason for the requested extension.

On June 6, 2005, a letter signed by Carole Washburn was sent to each railroad company that had not filed an annual report by May 1, 2005. The letter stated that Staff intended to recommend further enforcement action, including possible penalties, for any company that failed to file a completed annual report prior to July 1, 2005.

In October 2005, Licensing Services Staff reviewed annual reports and regulatory fees for railroad companies, and compiled a list of companies that were out of compliance. On November 9, 2005, a letter signed by Carole Washburn was sent to each of the railroad companies not in compliance, informing it that it had incurred a 2% penalty on its regulatory fees and further enforcement action would be taken should the company not file its annual report no later than November 18, 2005.

As of December 15, 2005, Ballard Terminal Railroad Company still has not filed an annual report for 2004.

The penalties contained in this notice of penalties incurred are assessed pursuant to RCW 81.04.405. Under RCW 81.04.405, every public service company subject to Title 81 RCW who violates or who procures, aids or abets in the violation of any provision of Title 81 RCW or any order, rule, regulation or decision of the Commission is subject to a penalty of $100 per violation. Each and every violation shall be a separate and distinct offense. Each day of a continuing violation is a separate and distinct offense. Every act of commission or omission which procures, aids or abets in the violation is considered to be a violation.

Penalties are due and payable upon receipt of this penalty notice. If for any reason you believe the violations described above did not occur, you may request a hearing to contest the occurrence of the violations. If you have an explanation as to why the violations occurred, or have other facts you believe the Commission should consider, you may make application for mitigation of this penalty. To do so, complete the enclosed mitigation form and return it to the Washington Utilities and Transportation Commission, Post Office Box 47250, Olympia, Washington 98504-7250, within FIFTEEN (15) days of your receipt of this penalty notice. You may, although you are not required to, present your request for mitigation at a hearing. The Commission will consider your plea and notify you of its determination.

If you request a hearing to contest either the occurrence of the violations or the amount of the penalty, please state why you believe a hearing is called for in your circumstances. Failure to request a hearing to contest the occurrence of the violations or the amount of the penalty, return the mitigation plea, or pay the amount due within 15

days will cause the Commission to refer this matter to the Office of the Attorney General for collection. Suit may then be brought against you and after trial, judgment may be entered against you.

DATED at Olympia, Washington and effective this 16th day of December, 2005.

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

APPLICATION FOR MITIGATION OF PENALTIES

NOTE: This form must be completed, signed, and received by the Commission within 15 days of your receipt of this form.

I have read and understand RCW 9A.72.020, which states that making false statements under oath is a class B felony (printed below). 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, application for mitigation of the penalties (as described in the attached Notice of Penalties), for the following reasons:

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated: _____ [month/day/year], at _____[city, state]

_____

Signature of Applicant

RCW 9A.72.020:
"Perjury in the first degree. (1) A person is guilty of perjury in the first degree 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."