



STATE OF WASHINGTON

UTILITIES AND TRANSPORTATION COMMISSION

1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250

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October 17, 2014

Steven V. King, Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Dr. SW
P. O. Box 47250
Olympia, Washington 98504-7250

RE: *Washington Utilities and Transportation Commission v. Heidi Bergman d/b/a Alice the Mover*
Commission Staff's Response to Application for Mitigation of Penalties
Docket TV-143549

Dear Mr. King:

On September 29, 2014, the Washington Utilities and Transportation Commission (commission) issued Penalty Assessment TV-143549 against Heidi Bergman d/b/a Alice the Mover (Alice the Mover) in the amount of \$2,900 for 29 violations of Washington Administrative Code (WAC) 480-15-570, which requires household goods carriers to comply with parts of Title 49, Code of Federal Regulations (CFR), including Part 391 - Qualification of drivers as follows:

- **\$2,900 for 29 violations of WAC 480-15-570 – Using a driver not medically examined and certified.** Driver Mark Rice drove a total of 29 days over a six-month period without medical certification.

On October 14, 2014, Alice the Mover filed with the commission its application for mitigation of penalties (Mitigation Request). Heidi Bergman, owner of Alice the Mover, admitted the violations but asked that the penalty amount be reduced for the reasons set out in the response.

Alice the Mover operates as a household goods carrier under permit number THG-64915. On August 19, 2014, Motor Carrier Safety Inspector Alan Dickson conducted a compliance review

inspection at the carrier's terminal. Compliance reviews are an in-depth examination of the motor carrier's compliance with regulations that the FMCSA has identified as "acute" or "critical."¹ Acute regulations are identified where noncompliance is so severe as to require immediate corrective actions by a motor carrier regardless of the overall safety posture of the motor carrier. Violations of critical regulations are generally indicative of breakdowns in a carrier's management controls. Non-compliance with acute regulations and patterns of non-compliance with critical regulations are quantitatively linked to inadequate safety management controls and usually higher-than-average accident rates.² Mr. Dickson found 31 total violations, all of which were first-time violations.

The commission's Enforcement Policy, however, provides that some commission requirements are so critical to safe operations that the commission may issue penalties for a first-time violation, even if staff has not previously provided technical assistance on specific issues.³ Of the 31 violations found, 29 were of critical regulations related to driver medical certification. The Commission grants no leeway with this type of violation. Drivers who are not medically certified put the traveling public at risk.

In the Mitigation Request, Ms. Bergman requests a reduction in the assessed penalty because of financial hardship. Ms. Bergman also reports that her company is now in full compliance with the medical certification requirements.

Staff appreciates Ms. Bergman's efforts to come into compliance, including providing staff with a copy of driver Mark Rice's current medical certification. As a regulated household goods moving company, it is Ms. Bergman's responsibility to be familiar with, and remain educated about, all laws, rules and requirements. Mr. Rice was not medically certified as required at the time of the compliance review and Ms. Bergman did not provide any new information that supports mitigation of the penalty. Staff recommends the request be denied; however, staff supports extended payment arrangements on the penalty amount.

If you have any questions, please contact Betty Young, Compliance Investigator, Transportation Safety, at 360-664-1202, or by e-mail at byoung@utc.wa.gov.

Sincerely,



David Pratt

Assistant Director, Transportation Safety

¹ Code of Federal Regulations, [Appendix B to Part 385—Explanation of safety rating process](#)

² *Id.*

³ Docket A-120061 – Enforcement Policy of the Washington Utilities & Transportation Commission – Section V.