



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

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May 5, 2023

Amanda Maxwell, Executive Director and Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, WA 98504-7250

RE: *Washington Utilities and Transportation Commission v. Alto Moving LLC*
Commission Staff's Response to Application for Mitigation of Penalties
Docket TV-230215

Dear Ms. Maxwell:

On April 11, 2023, the Washington Utilities and Transportation Commission (Commission) issued a penalty assessment against Alto Moving LLC (Alto Moving or Company) in the amount of \$4,700 for violations of Washington Administrative Code (WAC) 480-15-560, Equipment Safety Requirements, which adopts Title 49 Code of Federal Regulations (49 C.F.R.) Part 396 – Inspection, Repair, and Maintenance; and WAC 480-15-570, Driver Safety Requirements, which adopts 49 C.F.R. Part 391 – Qualification of Drivers and 49 C.F.R. Part 395 – Hours of Service of Drivers, as follows:

- **Forty-five violations of 49 C.F.R. § 391.45(a) – Using a driver not medically examined and certified.** The Company allowed John Tuttle to operate a commercial motor vehicle (CMV) without a valid medical certificate on 45 occasions between September 13, 2022, and February 11, 2023.
- **One violation of 49 C.F.R. § 395.8(a)(1) – Failing to require driver to make a record of duty status.** The Company failed to maintain a record of duty status for driver John Tuttle on February 3, 2023.
- **One violation of 49 C.F.R. § 396.17(a) – Using a CMV not periodically inspected.** The Company failed to have an annual inspection performed on its CMV.

On April 27, 2023, Alto Moving filed with the Commission its application for mitigation of penalties. In the request for mitigation, John Tuttle, owner of Alto Moving, admits the violations, asks that the penalties be reduced, and requests a hearing to present evidence before an

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administrative law judge, but fails to include reasons supporting its application for mitigation of penalties or request for hearing.

Companies are required to file a request for mitigation within 15 days of receiving a penalty assessment and are directed to provide reasons to support the request, otherwise the Commission can deny the request. In this case, Alto Moving filed its response to the docket just outside of the allotted time and failed to include reasons supporting its requests.

In response to Alto Moving's request for a hearing, Commission staff (Staff) recommends the Commission deny the request. The Company does not contest that the violations occurred, Alto Moving failed to provide reasons supporting its request for a hearing, and Staff believes sufficient documentation exists in the docket for an administrative law judge to decide without further expense and delay.

In response to Alto Moving's application for mitigation of penalties, the Company corrected the violations of 49 C.F.R. § 391.45(a) during the safety investigation; however, the violations of 49 C.F.R. § 391.45(a), 49 C.F.R. § 395.8(a)(1), and 49 C.F.R. § 396.17(a) were all repeat violations from the previous safety investigation. Considering this, Staff recommends the Commission deny the Company's request for mitigation of penalties.

Staff further recommends that \$3,500 of the penalty be suspended for a period of two years, and waived thereafter, subject to the conditions that: (1) Staff conducts a focused safety investigation of 49 C.F.R. § 391.45(a) within two years or as soon thereafter as practicable to review the Company's compliance, (2) Alto Moving does not incur any repeat violations of 49 C.F.R. § 391.45(a), and (3) the Company pays the \$1,200 portion of the penalty that is not suspended.

If you have any questions, please contact Jason Hoxit, Compliance Investigator, Transportation Safety, at (360) 867-8305, or by email at Jason.Hoxit@utc.wa.gov.

Sincerely,

Jason Sharp
Motor Carrier Safety Supervisor, Transportation Safety