

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment)	DOCKET TV-130953
Against)	
)	ORDER 01
A BETTER COMPANY, LLC)	
)	ORDER DENYING REQUEST
in the amount of \$1800)	FOR HEARING AND
.....)	MITIGATION

BACKGROUND

- 1 Washington law requires household goods carriers to file annual reports and pay regulatory fees by May 1 of each year. WAC 480-15-480. On March 1, 2013, the Washington Utilities and Transportation Commission (Commission) mailed annual report and regulatory fee forms to household goods carriers. The cover letter accompanying the forms reminded carriers to file their annual reports and pay their regulatory fees by May 1, 2013, and detailed potential penalties companies faced if they failed to file by that date. The penalties include an assessment of \$100 for each violation of Commission rules, and in the case of continuing violations, each day’s continuance is a separate violation. RCW 81.04.405.

- 2 On May 10, 2013, the Commission notified A Better Company, LLC (Better Company or Company) that the Company’s annual fee and regulatory report were overdue, and that, as a consequence, Better Company had accrued a penalty of \$700. That notice further explained that the penalty would increase by \$100 per day for each business day that the Company failed to file the report and pay the fee. The notice stated that companies that filed no later than May 24, 2013, would receive mitigated penalties of \$25 per day.

- 3 On August 6, 2013, the Commission sent Better Company a letter assessing a penalty of \$1,800 against the Company, calculated as \$100 per business day from May 1 to May 24. The Commission’s letter advised Better Company that if the Company wished to request a hearing, it was required to do so within 15 days—August 21, 2013.

4 Better Company has not yet filed its annual report or paid its regulatory fee. On August 8, 2013, the Company responded to the Commission’s penalty assessment, admitting the violation but seeking mitigation of the penalty. Better Company states that the letter notifying the Company “that it had not filed was delivered to another apartment in my building” and that the penalty would be “devastating” to the Company.

5 Commission records indicate that on August 28, 2013, Commission Staff received a telephone call from the Company requesting a hearing so Better Company could provide a statement about the mis-delivered mail.

DISCUSSION

6 The Commission denies Better Company’s request for a hearing and mitigation. The request for a hearing was not timely, because the Company did not request one until after the 15 days the Commission set for filing a request. Even if the hearing request were timely, we decline to hold a hearing. Mis-delivery of mail does not excuse the failure to file annual reports and pay regulatory fees or support mitigation of the penalty to do so, and therefore evidence of mis-delivery is irrelevant to the Commission’s decision.

7 Better Company has still not filed its annual report or paid its regulatory fee. The Company is or should be fully aware of the Commission rule that requires household goods carriers to file annual reports and pay regulatory fees by May 1 of each year. Moreover, the Commission notified the Company on March 1, 2013, that Better Company would be subject to penalties if it failed to make the requisite filings by May 1, 2013. Better Company does not claim that it did not receive this reminder. The Commission provided the Company with ample notice of Commission requirements and the consequences of failing to comply with them.

8 The Commission may take a number of factors into consideration when choosing a particular enforcement action and later entertaining a request for mitigation of that

action, including whether the company promptly corrected the violation.¹ In this case, Better Company did not respond to the Commission's written reminders and offer to mitigate the penalty even when the Company's filing was overdue. The Company's continuing failure to file its annual report and pay its regulatory fee is therefore intentional. The Company's claim that the penalty would be "devastating" is not supported by any efforts to avoid or mitigate the penalty. In this case, the Commission believes that the penalty amount provides a reasonable deterrent to overlooking future filing deadlines and encouragement for the Company to file reports and pay fees on time.

ORDER

THE COMMISSION ORDERS:

- 9 (1) A Better Company LLC's request for a hearing is DENIED.
- 10 (2) A Better Company LLC's request for mitigation of the penalty is DENIED.
- 11 (3) The penalty of \$1800 is due and payable no later than December 31, 2013.
- 12 The Secretary has been delegated authority to enter this order on behalf of the Commissioners under WAC 480-07-904(1)(h).

DATED at Olympia, Washington, and effective December 23, 2013.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

STEVEN V. KING
Executive Director and Secretary

¹ Docket A-120061, Enforcement Policy of the Washington Utilities and Transportation Commission (January 7, 2013).

NOTICE TO PARTIES: This is an order delegated to the Executive Secretary for decision. As authorized in WAC 480-07-904(3), you must file any request for Commission review of this order no later than 14 days after the date the decision is posted on the Commission's website. The Commission will grant a late-filed request for review only on a showing of good cause, including a satisfactory explanation of why the person did not timely file the request. A form for late-filed requests is available on the Commission's website.