

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of
PNW Moving and Delivery LLC

Petitioner,

For an Exemption from WAC 480-15-
530(1)(a)

DOCKET TV-230279

ORDER 01

GRANTING PETITION FOR
EXEMPTION

BACKGROUND

- 1 PNW Moving and Delivery LLC (PNW or Company) is regulated by the Washington Utilities and Transportation Commission (Commission) as a carrier of household goods, and is based in Tacoma, Washington. The Commission issued a temporary household goods permit (THG067549) to PNW on February 28, 2017. Since that time, PNW's permit has been cancelled three times for failure to file active proof of insurance.
- 2 PNW's household goods moving permit was cancelled on: September 29, 2017; May 26, 2020; and April 20, 2023. After the first two cancellations, PNW immediately filed an application for reinstatement, provided acceptable proof-of-insurance, and the permit reinstatement was granted by the Commission. Most recently, PNW has applied for reinstatement on April 21, 2023.
- 3 Under WAC 480-15-530(1), household goods carriers must file with the Commission evidence of currently effective liability and property damage insurance written by a company authorized to write such insurance in the state of Washington. Prior to April 20, 2023, PNW was insured by such companies. After the insurance cancellation in April of 2023, the Company has been unable to obtain insurance from admitted insurance carriers.
- 4 The Company's former insurer, Progressive Insurance Company, declined to renew PNW's coverage due to the Company's history of multiple lapses in timely payment. Several other authorized insurance carriers including Transguard Insurance Company, Movers Choice Insurance Program, and Berkshire Hathaway Homestate Company, have also declined to insure PNW for this same reason.

- 5 On May 16, 2023, PNW filed a Petition for an exemption from WAC 480-15-530(1)(a), the Commission’s insurance rule for vehicles with gross vehicle weight ratings of 10,000 pounds or more. The Company requests to retain insurance from Prime, a surplus lines insurer that is not authorized to write insurance in Washington. Surplus lines insurance is used when licensed insurers in the standard market will not provide coverage because the risk is too high, too unfamiliar, or does not otherwise meet the insurers’ guidelines. Surplus line insurers have more flexibility to design and price their policies and generally charge higher premiums because the risks they insure against are usually more costly to cover.
- 6 The difficulty acquiring insurance is due to the lapses in coverage caused by PNW’s failure to submit timely payments. The company points to a lack of steady business, over-spending on marketing, and a lack of an auto-payment option with Progressive, which led to their inability to pay insurance premiums on time. PNW is now considered a high-risk candidate for insurance and is paying increased rates with Prime because of that status. After one year of coverage with a surplus lines insurer without lapse, an admitted carrier may reconsider. PNW’s goal is to return to coverage through an admitted insurance carrier as quickly as possible. Prime has required PNW to pre-pay the premiums and PNW has initiated a new budget process to prioritize insurance payments.
- 7 While the specific requirements of Commission rules can be exempted, under RCW 81.80.190, the Commission must “require the carriers to either procure and file liability and property damage insurance from a company licensed to write such insurance in the State of Washington, or deposit security, for the limits of liability and on terms and conditions that the Commission determines are necessary for the reasonable protection of the public against damage and injury for which the carrier may be liable by reason of the operation of any motor vehicle.” Because this is a statutory requirement, the Company cannot be exempted from the obligation to purchase its insurance from a company licensed in Washington. The Office of the Insurance Commissioner (OIC) authorizes insurance companies to write insurance in Washington. RCW 48.15.040 allows surplus lines coverage under certain conditions if insurance from authorized insurers cannot be procured. The licensing requirements for surplus line brokers are found in RCW 48.15.070.
- 8 Evolution Insurance Brokers (Evolution), WAOIC #729932, is a broker registered with the OIC and authorized to write surplus lines insurance on behalf of Prime in Washington. PNW secured a firm quote for auto liability insurance from Prime through its broker, Evolution. PNW attempted to find similar admitted coverage after its most

recent authorized insurance carrier declined coverage. The Company has been unable to find another admitted insurance carrier that provides the same coverage as Prime.

9 PNW requests an exemption from WAC 480-14-250(1)(a) so that it can operate with insurance from Prime, a “non-admitted” surplus lines insurer who offers coverage to those whose needs are not met by the standard insurance market.

10 Commission staff (Staff) supports the Company’s Petition. The Federal Motor Carrier Safety Administration (FMCSA) accepts surplus lines insurance (CFR Title 49 Part 387.315). Staff is willing to recommend the use of surplus lines insurance subject to the condition that the Company buys insurance from a highly rated surplus line company (AM Best A- or above rating). Prime’s financial strength rating is A for excellent and its long-term issuer rating is also A or excellent.

DISCUSSION

11 We grant the Company’s Petition subject to the condition that Staff recommends. Under WAC 480-07-110(1), the Commission may grant an exemption from any of its rules if doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes. We find that the Company’s Petition meets this standard subject to the condition that the Company buy insurance from a highly rated surplus lines company (AM Best A- or above rating). The purpose of the insurance rule is to protect the public from loss or damage caused by the Company while providing service. Surplus lines insurance responds to that need and is a viable option for high-risk or unique lines of business where risk is less certain. In addition, FMCSA accepts surplus lines insurance and has accepted the Company’s filing with United Specialty. Accordingly, we find that the Petition for exemption is consistent with the public interest, the purposes underlying regulation, and applicable statutes, and conclude that it should be granted.

FINDINGS AND CONCLUSIONS

12 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate the rules, regulations, and practices of motor carrier companies relating to acquiring common carrier permit and insurance requirements.

- 13 (2) PNW is a household goods company and a public service company subject to Commission jurisdiction.
- 14 (3) This matter came before the Commission at its regularly scheduled meeting on June 15, 2023.
- 15 (4) On May 16, 2023, PNW filed a Petition for Exemption from the Commission's insurance rule, WAC 480-15-530(1)(a), so that it may purchase surplus lines insurance with an unauthorized insurer, Prime Insurance Company, consistent with the requirements of RCW 48.15.
- 16 (5) Pursuant to WAC 480-07-110(1), the Commission may grant an exemption from any of its rules if doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes.
- 17 (6) After reviewing PNW's Petition and giving due consideration to all relevant matters and for good cause shown, the Commission finds that granting PNW's Petition subject to the condition that it buys insurance from a highly rated surplus lines company (AM Best A- or above rating) is consistent with the public interest, the purposes underlying regulation, and applicable statutes.

ORDER

THE COMMISSION ORDERS:

- 18 (1) PNW Moving and Delivery LLC's Petition for exemption from WAC 480-15-530(1)(a) is granted subject to the condition that PNW Moving and Delivery LLC purchases insurance from a highly rated surplus line insurance company (AM Best A- or above rating).
- 19 (2) The Commission retains jurisdiction over the subject matter and PNW Moving and Delivery to effectuate the terms of this Order.

The Commissioners, having determined this Order to be consistent with the public interest, directed the Secretary to enter this Order.

DATED at Lacey, Washington, and effective June 15, 2023.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

AMANDA MAXWELL
Executive Director and Secretary