

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment
Against

THIRLWALL NW HOLDINGS LLC,
d/b/a COLLEGE HUNKS MOVING
AND COLLEGE HUNKS HAULING
JUNK

in the amount of \$6,650.

DOCKET TV-240204

ORDER 01

GRANTING MITIGATION, IN PART;
IMPOSING AND SUSPENDING
PENALTIES

BACKGROUND

1 On April 18, 2024, the Washington Utilities and Transportation Commission (Commission) issued a penalty assessment against Thirlwall NW Holdings LLC, d/b/a College Hunks Moving; College Hunks Hauling Junk (Thirlwall NW Holdings or Company) in the amount of \$6,650 for the following violations of the Washington Administrative Code (WAC): 480-15-530, Public Liability and Property Damage Insurance; 480-15-555, Criminal Background Checks for Prospective Employees; and WAC 480-15-560, Vehicle and Driver Safety Requirements, which adopts Title 49 Code of Federal Regulations (49 C.F.R.) Part 391 – Qualification of Drivers. Specifically, the penalty assessment reads as follows:

- Sixty-one violations of WAC 480-15-530(1) – Failing to maintain the required public liability and property damage insurance prior to operating a commercial motor vehicle (CMV). Thirlwall NW Holdings operated a leased CMV on 61 occasions without the required public liability and property damage insurance between August 22, 2023, and February 22, 2024. The Commission assessed a penalty of \$50 for each occurrence of these acute violations, for a total of \$3,050.
- Two violations of WAC 480-15-555(1) – Failure to complete a criminal background check for every person the carrier intends to hire. The Company failed to acquire a criminal background check prior to rehiring drivers Connor McGarey and Spencer Woods. The Commission assessed a

penalty of \$50 for each occurrence of this critical-type violation, for a total of \$100.

- Seventy violations of 49 C.F.R. § 391.15(a) – Operating a commercial motor vehicle while disqualified. The Company allowed driver Joseph Delamare to operate a CMV with an invalid driver’s license on seventy occasions between August 22, 2023, and February 22, 2024. The Commission assessed a penalty of \$50 for each occurrence of this violation, for a total of \$3,500.

2 On May 1, 2024, Thirlwall NW Holdings filed with the Commission its application for mitigation of penalties (Application). In the request for mitigation, Jeff Thirlwall, owner of Thirlwall NW Holdings, admits the violations, states the violations were caused inadvertently, and that the Company has corrected the violations.

3 On May 7, 2024, Staff filed a response recommending the Commission grant the request for mitigation, in part, and assess a reduced total penalty of \$2,875 for all 86 violations. Staff further recommends that the Commission suspend a \$1,400 portion of the penalty for two years, and then waive it, subject to the following conditions: (1) Thirlwall NW Holdings must not incur repeat violations; (2) the Company must pay the \$1,475 portion of the penalty that is not suspended, within 10 days of this order or enter into a mutually agreeable payment arrangement with Staff; and (3) Staff conduct a follow-up investigation two years from the date of this order or as soon thereafter as practicable.

DISCUSSION AND DECISION

4 The Commission considers several factors when entertaining a request for mitigation, including whether the company introduces new information that may not have been considered in setting the assessed penalty amount, or explains other circumstances that convince the Commission that a lesser penalty will be equally or more effective in ensuring the company’s compliance.¹ The Commission also considers whether the violations were promptly corrected, a company’s history of compliance, and the likelihood the violation will reoccur. We address each violation category below.

5 **WAC 480-15-530(1).** The Penalty Assessment includes a \$3,050 penalty for 61 violations of WAC 480-15-530(1) for operating a leased CMV on 61 occasions without the required public liability and property damage insurance between August 22, 2023, and February 22, 2024. In its Application, the Company acknowledged the violation and

¹ Enforcement Policy ¶19.

took corrective action by adding rented vehicles to its own insurance policy exceeding the minimum combined single limit coverage.

6 Staff recommends the Commission reduce this portion of the penalty to \$1,525. We agree. Accordingly, we grant the Company's request to mitigate this portion of the penalty and assess a \$1,525 penalty for 61 violations of WAC 480-15-530(1).

7 **WAC 480-15-555(1).** The Penalty Assessment includes a \$100 penalty for 2 violations of WAC 480-15- 555(1) for failing to acquire a criminal background check prior to rehiring drivers Connor McGarey and Spencer Woods. In its Application, the Company states that upon rehiring employees, it will complete new background checks as required moving forward.

8 Staff recommends the Commission grant no reduction of this portion of the penalty based upon the fact that the Commission already issued the Company a reduced penalty of \$50 for each penalty occurrence at the outset, instead of the maximum allowable amount of \$100 for each occurrence. We agree that no further reduction of penalty is warranted. Accordingly, we deny the Company's request to mitigate this portion of the penalty.

9 **49 C.F.R. § 391.15(a).** The Penalty Assessment includes a \$3,500 penalty for 70 violations of 49 C.F.R. § 391.15(a) for allowing driver Joseph Delamare to operate a CMV with an invalid driver's license on seventy occasions between August 22, 2023 and February 22, 2024. In its Application, the Company claims that it was unaware that Joseph Delamare had his driver's license suspended for a non-safety related reason. To prevent future occurrences, the Company has received technical assistance with running annual motor vehicle reports on drivers.

10 Staff recommends the Commission reduce this portion of the penalty to \$1,250. We agree. Accordingly, we grant the Company's request to mitigate this portion of the penalty and assess a \$1,250 penalty for 70 violations of 49 C.F.R. § 391.15(a).

FINDINGS AND CONCLUSIONS

11 (1) The Commission is an agency of the state of Washington, vested by statute with authority to regulate rates, rules, regulations, and practices of public service companies, including household goods carriers, and has jurisdiction over the parties and subject matter of this proceeding.

12 (2) Thirlwall NW Holdings is a household goods carrier subject to Commission regulation.

- 13 (3) Thirlwall NW Holdings violated WAC 480-15-530(1) when it operated a leased CMV on 61 occasions without the required public liability and property damage insurance between August 22, 2023, and February 22, 2024.
- 14 (4) The Commission should penalize Thirlwall NW Holdings \$1,525 for 61 violations of WAC 480-15-530(1).
- 15 (5) Thirlwall NW Holdings violated WAC 480-15-555(1) when it failed to acquire a criminal background check prior to rehiring drivers Connor McGarey and Spencer Woods.
- 16 (6) The Commission should penalize Thirlwall NW Holdings \$100 for 2 violations of WAC 480-15- 555(1).
- 17 (7) Thirlwall NW Holdings violated 49 C.F.R. § 391.15(a) when it allowed driver Joseph Delamare to operate a CMV with an invalid driver’s license on seventy occasions between August 22, 2023 and February 22, 2024.
- 18 (8) The Commission should penalize Thirlwall NW Holdings \$1,250 for 70 violations of 49 C.F.R. § 391.15(a).
- 19 (9) The Commission should suspend a \$1,400 portion of the mitigated \$2,875 penalty for a period of two years, and then waive it, subject to the conditions outlined in paragraph 11 of this order.

ORDER

THE COMMISSION ORDERS:

- 20 (1) Thirlwall NW Holdings LLC’s request for mitigation of the \$6,650 penalty is GRANTED, in part, and the penalty is reduced to \$2,875.
- 21 (2) The Commission suspends a \$1,400 portion of the penalty for a period of two years, and then waives it, subject to the conditions outlined in paragraph 3 of this order.
- 22 (3) If Thirlwall NW Holdings LLC fails to satisfy the conditions in paragraph 3 of this Order, the suspended portion of the penalty will become immediately due and payable without further Commission order.
- 23 The Secretary has been delegated authority to enter this order on behalf of the Commissioners under WAC 480-07-904(1)(h).

DATED at Lacey, Washington, and effective September 27, 2024.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

JEFF KILLIP

Executive Director and Secretary

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.