**BEFORE THE WASHINGTON**

**UTILITIES AND TRANSPORTATION COMMISSION**

|  |  |  |
| --- | --- | --- |
| In the Matter of a Penalty Assessment Against  JIM’S TRANSFER, INC., d/b/a DEVRIES MOVING, PACKING & STORAGE,  in the amount of $2,100.00.  . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . | )  )  )  )  )  )  )  )  ) | DOCKET TV-120926  ORDER 01  ORDER PARTIALLY SUSPENDING PENALTY, SUBJECT TO CONDITION |

**MEMORANDUM**

1. **Penalty.** On July 24, 2012, the Washington Utilities and Transportation Commission (Commission) assessed a penalty of $2,100 against Jim’s Transfer, Inc., d/b/a DeVries Moving, Packing & Storage (Jim’s Transfer), for violations of Washington Administrative Code (WAC) 480-15-480. This rule requires household goods carriers to file annual safety reports with the Commission by May 1 each year.
2. On February 29, 2012, the Commission mailed Annual Report forms and Regulatory Fee packets to all regulated household goods carriers as required by WAC 480-15-480(1)(b). On May 15, 2012, the Commission mailed a letter to companies that had not yet filed an annual report notifying them that they had incurred, as of that date, a penalty of $900. The letter explained that companies who filed their annual reports no later than May 25, 2012, would receive mitigated penalties of $25 per day, with an additional $25 per day assessed for each instance in the previous five years that the company received a penalty for filing a late report.
3. Jim’s Transfer Inc., however, did not file its 2011 annual report until July 17, 2012. This is 77 days late, making the company liable for a penalty of up to $7,700 as provided in RCW [81.04.405](http://apps.leg.wa.gov/RCW/default.aspx?cite=81.04.405). The Commission, considering the nature of the offense and other factors, exercised its discretion to assess less than the maximum penalty. The Commission assessed a significant, but not unduly punitive, penalty of $2,100.
4. **Mitigation Request.** On July 17, 2012, Jim’s Transfer Inc., filed its annual report, including a note stating that it was late due to the company relocating its business in February 2012 and that it had never previously been late in filing its annual report. Anticipating that a penalty would be assessed, the company asked the Commission to consider waiving all penalties.
5. The Commission, as previously indicated, served its penalty assessment on Jim’s Transfer, Inc., on July 24, 2012. On August 6, 2012, the company filed a form provided by the Commission requesting mitigation of the penalty (Mitigation Request). In its Mitigation Request, Jim’s Transfer Inc., does not dispute that the violation occurred. Mr. DeVries, the company’s president, included in the Mitigation Request a letter offering facts in support of mitigation. This letter states that Jim’s Transfer has been a carrier in good standing in Washington since 1981 and has always filed its annual reports on time, except for 2011. Mr. DeVries reiterates that the company moved to a new facility early in 2012 and, due to this and the press of business, fell behind with its accounting and failed to file its annual report on time. Mr. DeVries’s letter states the Company’s renewed commitment to filing its annual reports on time and states, “we will make sure that this doesn’t happen again in the future.”
6. **Commission Staff Support for Partial Mitigation.** Commission Staff filed a Response to the Mitigation Request on July 31, 2012. Staff supports mitigating the assessed penalty from $2,100 to $1,050 because this is Jim’s Transfer Inc.’s first offense.
7. **Commission Determination.** The Commission determines that it should grant the Mitigation Request to the extent Staff recommends by suspending one-half of the penalty amount subject to the condition that Jim’s Transfer files its 2012 annual report by May 1, 2013. If the company fails to timely file its 2012 annual report, the suspended penalty will become due without further action by the Commission. An additional penalty may be assessed for any late filing of the 2012 annual report.
8. This decision is based on the acknowledgment by Jim’s Transfer that it violated the law, the company’s compliance record prior to the violation, the reasons related by the company for its late filing, and the company’s commitment to future compliance.

**ORDER**

THE COMMISSION ORDERS THAT:

1. (1) The penalty of $2,100 assessed against Jim’s Transfer, Inc., on July 24, 2012, is suspended in the amount of $1,050 subject to the condition that Jim’s Transfer files its 2012 annual report by May 1, 2013. If the company fails to timely file its 2012 annual report, the suspended penalty will become due without further action by the Commission.
2. (2) One-half of the penalty of $2,100 assessed against Jim’s Transfer, Inc., on July 24, 2012, (*i.e.,* $1,050) is due and payable to the Commission within 15 days following the date of this Order.
3. (3) The Commission delegates to its Secretary authority to enter this Order on behalf of the Commissioners under WAC 480-07-904(1)(h).

DATED at Olympia, Washington, and effective August 14, 2012.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER

Executive Director and Secretary

**NOTICE TO PARTIES: This is an order delegated to the Executive Secretary for decision. Under WAC 480-07-904(3), you may seek Commission review of this decision. In addition to serving you a copy of the decision, the Commission will post on its Internet Web site for at least 14 days a listing of all matters delegated to the Executive Secretary for decision under WAC 480-07-904(1). You must file a request for Commission review of this order no later than fourteen (14) days after the date the decision is posted on the Commission’s Web site. The Commission will schedule your request for review for consideration at a regularly scheduled open meeting. The Commission will notify you of the time and place of the open meeting at which the Commission will review the order.**

**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 Web site.**