

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of)	DOCKET TV-140790
)	
KEVIN LEE MILLER dba KLM)	
MOVERS,)	ORDER 01
)	
Petitioner,)	
)	ORDER DENYING EXEMPTION
Seeking Exemption from the Provisions)	FROM RULE
of WAC 480-15-530(1) Relating to Filing)	
Verification of Public Liability and)	
Property Damage Insurance by)	
Household Goods Companies)	
.....)	

BACKGROUND

- 1 On February 10, 2014, the Washington Utilities and Transportation Commission (Commission) received notice from the insurance provider for Kevin Lee Miller, dba KLM Movers (KLM or Company) that the Company’s insurance policy on file with the Commission would be cancelled effective March 17, 2014. The Commission’s regulatory staff (Staff) immediately advised KLM that if proof of insurance was not received by March 17, 2014, the Commission would suspend the Company’s operating authority.

- 2 On February 26, 2014, Prime Syndicate (Prime) submitted a temporary insurance binder for KLM for automobile liability and cargo coverage and subsequently filed a Form E certificate of insurance. Staff rejected the filing because Prime does not have a Certificate of Authority to sell insurance in Washington, and WAC 480-15-530(1)(a) requires the policy to be written by an insurance company authorized by the state insurance commissioner to write insurance in this state.

- 3 Because KLM did not file proof of insurance from an authorized insurance company, the Commission entered an order suspending KLM’s operating authority effective March 17, 2014. The order required KLM to provide valid proof of insurance within 30 days or the permit would be cancelled.

- 4 On April 7, 2014, the Commission received a letter from the Company contesting the cancellation and asking the Commission to reinstate the permit. Staff responded on April 10, 2014, denying the request to reinstate the permit, and explaining that KLM needed to obtain insurance in compliance with WAC 480-15-530(1)(a) or seek an exemption from that rule requirement.
- 5 On April 18, 2014, the Commission entered an order cancelling KLM's household goods authority due to lack of authorized insurance. The order directed the Company to cease all operations associated with permit HG-63577 and provided that to reinstate the permit, KLM would need to submit a new application and acceptable proof of insurance. The order further stated that the Company could request a hearing to contest the cancellation.
- 6 On May 5, 2014, KLM filed a petition requesting a temporary 15-month exemption from the requirements of WAC 480-15-530(1)(a) to enable the Company to obtain insurance from an authorized provider.
- 7 Staff reviewed the petition and recommends denying the request. Staff contends that the exemption is not in the public interest because it is inconsistent with the purpose of the rule to protect consumers from loss of, or damage to, their property caused by a household goods mover. In addition, Staff has evidence that the Company has continued to operate after the Commission cancelled the permit in violation of the Commission's order, rules, and statutes. Staff does not believe a rule exemption is appropriately granted under these circumstances.
- 8 In addition, Staff has concerns about the recent safety history of KLM. At the June 12, 2014, regularly scheduled meeting of the Commission, KLM was represented by Carol Miller. Orally, and in a letter filed with the Commission, Ms. Miller recounted KLM's safety record with the Federal Motor Carrier Safety Administration and discussed one accident involving a KLM truck. She contested the accuracy of Staff's contention that the Company has continued to accept requests for intrastate moves since KLM's operating permit was suspended. She also expressed optimism that, with additional interstate moves, KLM's safety record would improve.

DISCUSSION

- 9 The Commission may grant an exemption from its rules if that exemption is "consistent with the public interest, the purposes underlying regulation, and

applicable statutes.”¹ Among the factors the Commission considers are “whether application of the rule would impose undue hardship on the requesting person, of a degree or a kind different from hardships imposed on other similarly situated persons, and whether the effect of applying the rule would be contrary to the underlying purposes of the rule.”²

10 KLM’s requested exemption is not consistent with the public interest or with the purposes underlying the rule. The Washington Office of the Insurance Commissioner protects consumers by authorizing only legitimate and reliable insurance companies to operate in this state and regulating those operations to ensure that they are fair. We have incorporated those safeguards into our rule, and allowing a household goods mover to rely on insurance provided by an unauthorized carrier would undermine the consumer protection objectives of both state agencies. Though the statutes and regulations of the Office of the Insurance Commissioner are not without ambiguity in defining what is “authorized” insurance coverage, we conclude that KLM’s current insurance carrier, Prime, is not, for the purposes of considering this petition, an “authorized” carrier within the meaning of the Commission’s rule, WAC 480-15-530(1)(a).

11 The public interest also does not support relaxing requirements, even temporarily, for a company that recently has had significant safety issues and is not in full compliance with its regulatory obligations, including the requirement that no company may provide regulated service without Commission authority. Accordingly, we deny the petition. This denial is without prejudice, meaning that we invite KLM to renew its petition at a later date if it can better demonstrate to the satisfaction of the Commission that KLM’s safety record is such that it should be able to conduct intrastate moves in the State of Washington.

FINDINGS AND CONCLUSIONS

12 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington vested by statute with the authority to regulate the rates, rules, regulations, practices, and accounts of public service companies, including household goods companies.

¹ WAC 480-07-110(1).

² WAC 480-07-110(2)(c).

- 13 (2) KLM is a household goods company and a public service company subject to Commission jurisdiction.
- 14 (3) On March 17, 2014, the insurance policy covering KLM as required pursuant to WAC 480-15-530(1) expired, and a different insurance provider filed a policy covering KLM. The Commission rejected that filing because the new insurance provider is not authorized to write policies in Washington as required by the rule.
- 15 (4) On April 18, 2014, the Commission cancelled KLM's household goods authority due to lack of authorized insurance and directed the Company to cease all operations associated with permit HG-63577.
- 16 (5) On May 5, 2014, KLM requested a 15-month exemption from WAC 480-15-530(1) to give the Company sufficient time to obtain insurance from an authorized provider.
- 17 (6) This matter came before the Commission at its regularly scheduled meeting on June 12, 2014.
- 18 (7) Exempting KLM from the requirement in WAC 480-15-530(1) to have insurance from an authorized provider would unacceptably increase the risk that consumers would suffer uncompensated losses for damages the Company may cause to their property.
- 19 (8) KLM is not in full compliance with Commission orders, rules, and statutes.
- 20 (9) KLM's petition for exemption from WAC 480-15-530(1) is not consistent with the public interest or the underlying purposes of the rule and should be denied.
- 21 (10) This denial is without prejudice to KLM renewing its petition at a later date if either (1) it has further legal argument that in fact Prime is indeed "authorized" by the Office of the Insurance Commissioner to provide insurance in Washington within the meaning of Commission's rules or (2) when it can better demonstrate to the satisfaction of the Commission that KLM's safety record is such that it should be able to conduct intrastate moves in the State of Washington.

ORDER

22 **THE COMMISSION ORDERS** That the petition of Kevin Lee Miller dba KLM Movers for a 15-month exemption from WAC 480-15-530(1) is DENIED.

DATED at Olympia, Washington, and effective June 13, 2014.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

PHILIP B. JONES, Commissioner

JEFFREY D. GOLTZ, Commissioner