

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment)	DOCKET TV-150872
Against)	
)	ORDER 01
AIR VAN MOVING & STORAGE, INC.)	
)	ORDER DENYING REQUEST FOR
in the amount of \$1,000)	HEARING; DENYING CONTEST
)	OF VIOLATION; DENYING
)	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 February 27, 2015, the Washington Utilities and Transportation Commission (Commission) mailed annual report and regulatory fee packets to all household goods carriers. The forms included a reminder that companies must file their annual reports and pay their regulatory fees by May 1, 2015, or face penalties of \$100 for each violation of Commission rules. In the case of continuing violations, each day’s continuance is a separate violation. RCW 80.04.405.
- 2 Air Van Moving & Storage, Inc. (Air Van or Company) filed an incomplete annual report on May 6, 2015. On May 26, the Commission assessed a penalty of \$1,000 against Air Van, calculated as \$100 per business day from May 1 to May 15.
- 3 On June 5, 2015, Air Van responded to the Commission’s penalty assessment contesting the violations and requesting a hearing. The Company provided the following information:

“The form was filled out and payment made. A late penalty was assessed and payment made. Apparently an email was sent to me which I did not receive. It looks like a typo for the last letter of the email address and I did not receive any notice of incompleteness. The violation was for mileage and in all the years we have filed we always responded to the mileage question in the same way, and have never had any questions raised or negative responses to it. If this is no longer an acceptable response, then we will make changes to accommodate the needed change.”

- 4 On June 12, 2015, Commission Staff (Staff) filed a response recommending the Commission deny the Company's request for mitigation. Staff notes that Air Van late-filed its annual reports in 2014, 2013, and 2010. Staff also noted that the Company was advised in 2014 that it must include the mileage information that was again omitted from its report in 2015. Finally, Staff noted that as of June 12, 2015, the Company's report remains incomplete despite the known deficiency. Staff did state, however, that it is amenable to a penalty reduction to reflect the number of days late the incomplete report was filed, or \$300, because Staff's first reminder to include the omitted information was sent to an invalid email address.

DISCUSSION

- 5 WAC 480-15-480 requires permitted household goods carriers to file annual reports and pay regulatory fees by May 1 of each year. Companies are responsible for complying with their legal obligations, and the Company should have ensured its complete annual report was received by May 1. Moreover, the Company was advised in 2014 that it must submit mileage data.
- 6 As a preliminary matter, we deny the Company's request for a hearing. The Commission's penalty assessment advised the Company that a request for hearing will only be granted if material issues of law or fact require consideration of evidence and resolution in hearing. Here, no issues of law or fact are in dispute. The Company admits that it late-filed its incomplete annual report on May 6, 2015, and Staff concedes that the email notifying the Company that the report was incomplete was sent to an incorrect email address. The facts, therefore, are undisputed, and the law is clear. Accordingly, the Company's request for a hearing is denied.
- 7 The Commission also denies the Company's contest of the violations. The undisputed facts demonstrate that, as of June 12, 2015, the Commission has not received the Company's completed annual report. Air Van, not Staff, bears the ultimate responsibility to ensure that the Commission receives the Company's complete annual report by the due date. The Company failed to timely file its annual report or correct the deficiency, and thus violated the law.
- 8 Nor is mitigation of the penalty appropriate under these circumstances. The Commission may consider a number of factors when entertaining mitigation, including a company's history of compliance and the likelihood the violation will recur.¹ Air Van received and

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

paid a \$200 penalty in 2014, a \$450 penalty in 2013, and a \$100 penalty in 2010. The Company was advised in 2014 that it must include mileage information on its annual report form, but, to date, has failed to provide that information. We find the \$1,000 penalty is an appropriate incentive for the Company to complete its 2015 filing and to ensure timely and complete filings in the future. Moreover, if the Company fails to correct its deficient report within 10 days of the date of this order, it will be subject to additional penalties.

ORDER

THE COMMISSION ORDERS:

- 9 (1) Air Van Moving & Storage, Inc.'s request for a hearing is DENIED.
- 10 (2) Air Van Moving & Storage, Inc.'s contest of the violations is DENIED.
- 11 (3) Air Van Moving & Storage, Inc.'s request for mitigation is DENIED.
- 12 (4) The \$1,000 penalty is due and payable no later than June 29, 2015.
- 13 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 June 17, 2015.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

STEVEN V. KING
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.