

[Service Date October 31, 2012]

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment)	DOCKET TV-120916
Against)	
)	ORDER 01
BELLINGHAM TRANSFER &)	
STORAGE, INC.,)	ORDER SUSPENDING
)	PENALTY, SUBJECT TO
in the amount of \$375.00.)	CONDITION
.....)	

MEMORANDUM

- 1 **Penalty.** On July 23, 2012, the Washington Utilities and Transportation Commission (Commission) assessed a penalty of \$375 against Bellingham Transfer & Storage, Inc. (Bellingham), for violations of Washington Administrative Code (WAC) 480-15-480. This rule requires household goods carriers to file annual 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. 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 reduced 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 Bellingham filed its annual report on May 22, 2012, which is 15 business days past the deadline of May 1, 2012. The penalty assessed was reduced from the maximum \$100 per calendar day to \$25 per business day for a total of \$375. Bellingham has held permanent household goods authority since June 2006 and has never received a penalty for filing a delinquent annual report in the past.

- 4 **Mitigation Request.** On August 10, 2012, Bellingham filed a letter requesting mitigation (Mitigation Request). In its Mitigation Request, Bellingham does not deny the violation, but states:

I am asking forgiveness of the penalty in the amount of \$375 for late filing of our quarterly report. Our principal officer was admitted to the hospital in February of this year and was on life support for upward of 3 weeks. Thankfully she is now recovering at home. However during this time we ran the office a bit haphazardly as we are all family and had to split our time between here and caring for Sandy. And her job she does here also fell on our shoulders. I ask you to reconsider this late penalty as it would also be a hardship on our already struggling small business.

- 5 **Commission Staff Support for Mitigation.** Commission Staff filed a Response to the Mitigation Request on October 22, 2012. Staff states that it would not typically support mitigation beyond the administrative relief afforded by Staff's decision to reduce the penalty assessment relative to the maximum penalty that could have been assessed. However, in this instance, Staff supports waiving the penalty assessed because the company has never received a penalty in the past and was faced with unusual medical circumstances that are the primary reason for the delinquent annual report filing.

- 6 **Commission Determination.** The Commission determines that it should grant the Mitigation Request to the extent of suspending the penalty of \$375, subject to the condition that Bellingham file its 2012 annual report by May 1, 2013. If the company fails to meet this condition, the suspended penalty will become due without further action by the Commission.¹

- 7 The Commission's primary goal in reaching its determination is to promote future compliance. The suspended penalty amount should encourage such compliance. A secondary goal of penalty assessments is to punish violations. Considering that Bellingham's tardiness in filing its report was due to circumstances beyond its ability to control, it does not appear that a punitive measure is warranted in this instance.

¹ The Commission may assess an additional penalty for any late filing of the 2012 annual report.

ORDER

THE COMMISSION ORDERS THAT:

- 8 (1) The penalty of \$375 assessed against Bellingham Moving, LLC, on July 23, 2012, is suspended, subject to the condition that Bellingham 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.
- 9 (2) 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 October 31, 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.