

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment)	DOCKET TV-120918
Against)	
)	ORDER 01
CAN'T STOP MOVING, LLC,)	
)	ORDER PARTIALLY
in the amount of \$1,125.00.)	SUSPENDING PENALTY,
)	SUBJECT TO CONDITION
.....)	

MEMORANDUM

- 1 **Penalty.** On July 23, 2012, the Washington Utilities and Transportation Commission (Commission) assessed a penalty of \$1,125 against Can't Stop Moving, LLC (Can't Stop), 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 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 Can't Stop, however, filed its 2011 annual report 22 days late, on May 23, 2012, making the company liable for a penalty of up to \$2,200 as provided in RCW 80.04.405. 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 penalty of \$1,125. This includes a \$25 per day penalty for 15 business days tardiness, plus another \$50 per day penalty in recognition of the fact that this is the company's third violation in three years.

- 4 **Mitigation Request.** On August 13, 2012, Can't Stop filed a form provided by the Commission, requesting mitigation (Mitigation Request). In its Mitigation Request, Can't Stop does not deny the violation. The company states: "We realize we made a mistake and sent in the report as soon as we received the late notice. We would appreciate any leniency that could be given, and we pledge to have paperwork filed and submitted on time in the future. Thank you for your consideration."
- 5 **Commission Staff Opposition to Mitigation.** Commission Staff filed a Response to the Mitigation Request on August 22, 2012. Staff opposes the Mitigation Request because penalty to which the company is subject already was mitigated administratively relative to the maximum penalty that could be assessed and because this is not Can't Stop's first offense.
- 6 **Commission Determination.** The Commission determines that it should grant the Mitigation Request to the extent of suspending \$625 of the penalty subject to the condition that Can't Stop must 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 This decision balances Can't Stop's acknowledgement that it violated the law and its stated commitment to future compliance against the fact that this is a third violation by the company in as many years. The Commission's primary goal in reaching its determination is to promote future compliance. Both the suspended penalty amount and the amount remaining due should encourage such compliance. A secondary goal of penalty assessments is to punish violations. Here, Can't Stop's pattern of violations militates in favor of a higher punitive amount than might be the case in the instance of a first violation.

ORDER

THE COMMISSION ORDERS THAT:

- 8 (1) The penalty of \$1,125 assessed against Can't Stop Moving, LLC, on July 23, 2012, is suspended in the amount of \$625, subject to the condition that Can't

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

Stop 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 unmitigated penalty amount of \$500 is due and must be paid to the Commission by Can't Stop Moving, LLC, within 15 days following the date of this Order.
- 10 (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 October 30, 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.