

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment)	DOCKET TV-120944
Against)	
)	ORDER 01
ERIC STEWART d/b/a IRONMAN)	
MOVING SERVICES,)	
)	ORDER DENYING MITIGATION
in the amount of \$2,100.)	
)	
.....)	

MEMORANDUM

- 1 **Penalty.** On July 24, 2012, the Washington Utilities and Transportation Commission (Commission) assessed a penalty of \$2,100 against Eric Stewart d/b/a Ironman Moving Services (Ironman or Company), for violations of Washington Administrative Code (WAC) 480-15-480. This rule requires permitted household goods carriers to file annual reports with the Commission by May 1 each year. Ironman failed to timely file its annual report.

- 2 Ironman filed its annual report on May 25, 2012, which is 18 business days past the deadline. The Commission’s policy for late-filing companies who submitted their reports on or before May 25, 2012, was to assess a penalty using the rate of \$25 per day, as opposed to the \$100 per day authorized by statute. Relying on this lower rate, the Commission calculated Ironman’s penalty to be \$450. However, based on the Company’s past record of non-compliance, the Commission applied additional penalties of \$100 per day, with the total penalty capped at \$2,100.

- 3 **Mitigation Request.** On August 22, 2012, Ironman filed an Application for Mitigation on a form provided by the Commission. The Company admitted the violation but explained that it was “under the impression I had until June 1st to file and be within compliance.” On the form, the Company marked the block requesting a hearing.

- 4 **Commission Staff Opposition to Mitigation.** Commission Staff filed a Response to the Company’s mitigation request on December 18, 2012. Staff points out that the

Commission not only sent out the required forms to all household goods carriers on February 29, 2012, but also sent a reminder letter on May 15, 2012. Staff further contends that the Ironman should be aware of the May 1 deadline because the Commission has penalized the Company for the same violation on five prior occasions (in 2006, 2007, 2008, 2010, and 2011). Nevertheless, Ironman did not file its 2011 annual report until May 25, 2012. Finally, Staff points out that Ironman failed to respond to the Commission's penalty assessment within the required time period of 15 days. For all of these reasons, Staff opposes mitigating the \$2,100 penalty.

- 5 **Commission Determination.** The Commission determines that it should not mitigate the penalty assessed against Ironman. Over the past six years, Ironman timely filed its annual report only once, in 2009. The Commission assessed penalties against Ironman for each of the other late filings and warned that future late filings would result in higher penalties. The \$2,100 penalty assessed this year should serve as a substantial incentive for timely filing in 2013.
- 6 Ironman's Application for Mitigation asked for a hearing and a decision by an administrative law judge. The Commission denies this request. The Commission conducts such a hearing only if the facts stated in support of the request demonstrate that a hearing is necessary to resolve a factual dispute. In this instance, the Commission finds that no hearing is necessary based on the information contained in the Company's request. The only issue Ironman identifies is a disagreement over when its annual report was due, and the Commission's rules and records referenced above are dispositive on the requirement that annual reports must be filed no later than May 1 each year. Ironman's contrary "impression" is irrelevant, and thus conducting a hearing on that issue would be fruitless.

ORDER

THE COMMISSION ORDERS THAT:

- 7 (1) The Company's application for mitigation is denied. The penalty of \$2,100 assessed against Eric Stewart d/b/a Ironman Moving Services, on July 24, 2012, is due and payable to the Commission within 30 days following the date of this Order.

- 8 (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 December 28, 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.