

Service Date: September 8, 2020

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment  
Against

KEYSTONE HAULING SERVICES,  
LLC, d/b/a COLLEGE HUNKS  
HAULING JUNK AND MOVING

in the amount of \$1,300

DOCKET TV-200730

ORDER 01

DENYING REQUEST FOR HEARING;  
GRANTING MITIGATION TO  
\$500

**BACKGROUND**

- 1 On August 18, 2020, the Washington Utilities and Transportation Commission (Commission) assessed a \$1,300 penalty (Penalty Assessment) against Keystone Hauling Services, LLC, d/b/a College Hunks Hauling Junk and Moving, (Keystone Hauling or Company) for 13 critical violations of Washington Administrative Code (WAC) 480-15-570, Driver Safety Requirements, which adopts by reference Title 49 Code of Federal Regulations (C.F.R.) Part 391 related to driver qualifications.<sup>1</sup>
- 2 On August 24, 2020, Keystone Hauling responded to the Penalty Assessment, admitting the violations, requesting a hearing, and requesting mitigation of the penalty (Application for Mitigation). In its response, the Company explained that the violations were unintentional and have since been corrected. Keystone Hauling additionally explains it had a valid physical examination form on file for employee Devin Brooks during the safety investigation, but did not have the required Department of Transportation (DOT) medical certificate. The Company also states in the response that the Penalty Assessment refers to 13 violations of 49 C.F.R. § 391.45(a), while the compliance review identifies one violation. Finally, Keystone Hauling requests the Commission reduce the penalty because it would create a financial hardship.
- 3 On August 31, 2020, Commission staff (Staff) filed a Response to the Application for Mitigation (Response), recommending the Commission deny Keystone Hauling's request

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<sup>1</sup> WAC 480-15 adopts by reference sections of Title 49 C.F.R. Accordingly, Commission safety regulations with parallel federal rules are hereinafter referenced only by the applicable provision of 49 C.F.R.

for a hearing and grant the Company's request for mitigation. Staff explains the physical examination form the Company references was reviewed during Staff's routine safety investigation, but does not satisfy the requirements of 49 C.F.R. § 391.45(a) because it is not a valid DOT medical certificate. Staff further clarified that the assessed penalty is based on 13 occurrences of one violation type, not a single violation. These violations occurred when the Company allowed Devin Brooks to operate a commercial motor vehicle without a valid medical certificate on 13 occasions between May 23 and June 26, 2020.

- 4 The Penalty Assessment includes a \$1,300 penalty for 13 violations of 49 C.F.R. § 391.45(a). Staff recommends reducing the assessed penalty to \$500 because these are first-time violations and the Company took prompt corrective action.

#### DISCUSSION AND DECISION

- 5 **Request for Hearing.** 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 the violations occurred. The facts, therefore, are undisputed, and the law is clear. Accordingly, the Company's request for a hearing is denied.
- 6 **Penalty Assessment.** Washington law requires household goods carriers to comply with federal safety requirements and undergo routine safety inspections. Violations discovered during safety inspections are subject to penalties of \$100 per violation.<sup>2</sup> In some cases, Commission requirements are so fundamental to safe operations that the Commission will issue penalties for first-time violations.<sup>3</sup> Violations defined by federal law as "critical," which are indicative of a breakdown in a carrier's management controls, meet this standard.<sup>4</sup>

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<sup>2</sup> See RCW 81.04.405.

<sup>3</sup> Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission ¶12 (Jan. 7, 2013) (Enforcement Policy).

<sup>4</sup> 49 C.F.R. § 385, Appendix B.

- 7 The Commission considers several factors when entertaining a request for mitigation, including whether the company introduces new information that may not have been considered in setting the assessed penalty amount, or explains other circumstances that convince the Commission that a lesser penalty will be equally or more effective in ensuring the company's compliance.<sup>5</sup>
- 8 The Penalty Assessment includes a \$1,300 penalty for 13 violations of 49 C.F.R. § 391.45(a) because Keystone Hauling allowed Devin Brooks to drive a commercial motor vehicle without a valid medical certificate on 13 occasions between May 23 and June 26, 2020. In its response, the Company explained that it immediately corrected the violations and implemented a system to prevent violations going forward.
- 9 Staff recommends the Commission assess a reduced penalty of \$500 because these are first-time violations and Keystone Hauling has ensured all of its drivers are now medically examined and certified. We agree. In its response, the Company acknowledged the violations and provided assurances of future compliance. In light of these factors, we assess a \$500 penalty for 13 violations of 49 C.F.R. § 391.45(a).

### **FINDINGS AND CONCLUSIONS**

- 10 (1) The Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, and practices of public service companies, including household goods carriers, and has jurisdiction over the parties and subject matter of this proceeding.
- 11 (2) Keystone Hauling is a household goods carrier subject to Commission regulation.
- 12 (3) Keystone Hauling admits that the violations occurred, and does not dispute any issues of law or fact.
- 13 (4) The Commission should deny Keystone Hauling's request for a hearing.

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<sup>5</sup> Enforcement Policy ¶19.

- 14 (5) Keystone Hauling violated 49 C.F.R. § 391.45(a) when it allowed employee Devin Brooks to drive on 13 occasions between May 23 and June 26, 2020, without being medically examined and certified.
- 15 (6) Keystone Hauling should be penalized \$500 for 13 violations of 49 C.F.R. § 391.45(a).

**ORDER**

**THE COMMISSION ORDERS:**

- 16 (1) Keystone Hauling Services, LLC, d/b/a College Hunks Hauling Junk and Moving's request for mitigation of the \$1,300 penalty is GRANTED, in part, and the penalty is reduced to \$500.
- 17 (2) The \$500 penalty is due and payable within 10 days of the effective date of this Order.
- 18 The Secretary has been delegated authority to enter this order on behalf of the Commissioners under WAC 480-07-904(1)(h).

DATED at Lacey, Washington, and effective September 10, 2020.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK L. JOHNSON  
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.**