

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET TV-210157
SIMBA MOVERS LLC	ORDER 01
in the amount of \$3,500	DENYING MITIGATION

BACKGROUND

1 On March 17, 2021, the Washington Utilities and Transportation Commission (Commission) assessed a \$3,500 penalty (Penalty Assessment) against Simba Movers LLC (Simba Movers or Company) for 34 violations of Washington Administrative Code (WAC) 480-15-560, which adopts by reference Title 49 Code of Federal Regulations (C.F.R.) Part 396, and two violations of WAC 480-15-570, which adopts by reference 49 C.F.R. Part 391.¹ The Penalty Assessment required that the Company either pay the penalty, request a hearing, or request mitigation within 15 days of receiving the Penalty Assessment. The Penalty Assessment includes:

- A \$3,400 penalty for 45 violations of 49 C.F.R. § 391.15(a) for using a disqualified driver.
- A \$100 penalty for two violations of 49 C.F.R. § 396.3(b) for failing to keep minimum records of inspection and vehicle maintenance.

2 On September 17, 2021, six months after the Penalty Assessment was issued, the Company filed with the Commission an application for mitigation of penalties (Application). In the Application, Simba Movers admits the violations and asks that the penalty be reduced.

3 On September 20, 2021, Commission staff (Staff) filed a response recommending the Commission deny the Application, but allow the Company to pay the penalty according to a payment schedule detailed in the letter.

¹ WAC 480-15-560 and WAC 480-15-570 adopt 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.

DISCUSSION AND DECISION

- 4 Washington law requires household goods companies to comply with federal safety requirements and undergo routine safety inspections. Violations discovered during safety inspections are subject to penalties of \$100 per violation.² In some cases, Commission requirements are so fundamental to safe operations that the Commission will issue penalties for first-time violations.³ Violations defined by federal law as “critical,” which are indicative of a breakdown in a carrier’s management controls, meet this standard.⁴
- 5 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.⁵ The Commission also considers whether the violations were promptly corrected, a company’s history of compliance, and the likelihood the violation will recur.⁶ We address each violation category in turn.
- 6 **49 C.F.R. § 391.15(a).** The Penalty Assessment includes a \$3,400 penalty for 34 violations of 49 C.F.R. § 391.15(a) because the Company allowed a driver to operate a commercial motor vehicle without a valid driver’s license on 34 occasions between September 2, 2020, and February 15, 2021. In its Application, the Company provided no additional information that would support mitigation.
- 7 Staff recommends the Commission deny mitigation of this penalty because the Company failed to timely respond to the Penalty Assessment and failed to provide any information supporting its request.
- 8 We agree with Staff’s recommendation and decline to mitigate this portion of the penalty. The Penalty Assessment mitigation request form clearly states that if the Company does not include reasons supporting its application, the request will be denied.

² See RCW 81.04.405.

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

⁴ 49 C.F.R. § 385, Appendix B.

⁵ Enforcement Policy ¶19.

⁶ Enforcement Policy ¶15.

9 **49 C.F.R. § 396.3(b).** The Penalty Assessment includes a \$100 penalty for two violations of 49 C.F.R. § 396.3(b) because the Company failed to maintain vehicle maintenance filed for its two commercial motor vehicles. In its Application, the Company provided no additional information that would support mitigation.

10 Staff recommends the Commission deny mitigation of this penalty because the Company failed to timely respond to the Penalty Assessment and failed to provide any information supporting its request. We agree and decline to mitigate this portion of the penalty.

11 **Payment Schedule.** Although the Company provided no information supporting or explaining its request for mitigation, such requests are usually fueled by potential financial hardship faced by companies assessed heavy fines. While the full penalty will serve to impress upon the Company the importance of the federal regulations at issue and the necessity of complying with Commission rules and procedures, a protracted payment schedule can help mitigate the impact of the penalty on the Company. We therefore agree with Staff's recommendation to allow the Company to pay the penalty according to the suggested payment schedule, as modified below:

Installment	Due Date	Amount
1	November 15, 2021	\$200
2	December 15, 2021	\$200
3	January 18, 2022	\$200
4	February 15, 2022	\$200
5	March 15, 2022	\$200
6	April 15, 2022	\$200
7	May 16, 2022	\$200
8	June 15, 2022	\$200
9	July 15, 2022	\$200
10	August 15, 2022	\$200
11	September 15, 2022	\$200
12	October 17, 2022	\$200
13	November 15, 2022	\$200
14	December 15, 2022	\$200
15	January 17, 2023	\$200
16	February 15, 2023	\$200
17	March 15, 2023	\$200
18	April 17, 2023	\$100

12 If Simba Movers fails to pay any installment by the due date, the entire balance, including the suspended penalty, will become due and payable immediately. Simba Movers may make additional payments in advance of the payment due dates or pay an increased amount on the due dates, but no additional payment or increased amount will relieve the Company of its obligation to make its timely monthly installment until the full amount of \$3,500 is satisfied.

FINDINGS AND CONCLUSIONS

13 (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 companies, and has jurisdiction over the parties and subject matter of this proceeding.

14 (2) Simba Movers is a household goods company subject to Commission regulation.

15 (3) Simba Movers violated 49 C.F.R. § 391.15(a) when it allowed its driver to drive without a valid driver's license on 34 occasions between September 2, 2020, and February 15, 2021.

16 (4) Simba Movers should be penalized \$3,400 for 34 violations of 49 C.F.R. § 391.15(a).

17 (5) Simba Movers violated 49 C.F.R. § 391.6.3(b) when it failed to maintain vehicle maintenance files for its two commercial motor vehicles.

18 (6) Simba Movers should be penalized \$100 for two violations of 49 C.F.R. § 396.3(b).

19 (7) The Commission should assess a total penalty of \$3,500 for 36 violations of WAC 480-15 and Title 49 C.F.R.

20 (8) The Commission should allow Simba Movers to pay the penalty in installments according to the schedule set out in paragraph 11, above.

ORDER

THE COMMISSION ORDERS:

21 (1) Simba Movers LLC's request for mitigation of the \$3,500 penalty is DENIED.

- 22 (2) The \$3,500 penalty is due and payable to the Commission in installments as set out in paragraph 11, above.
- 23 (3) If Simba Movers LLC fails to pay any installment by 5 p.m. on the date it is due, the unpaid balance will immediately become due and payable without further order by the Commission.
- 24 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 October 11, 2021.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

AMANDA MAXWELL
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.