

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment
Against

ADVANCE RELOCATION EXPERT,
LLC d/b/a A.R.E.

in the amount of \$700

DOCKET TV-160178

ORDER 01

ORDER GRANTING MITIGATION
TO \$400

BACKGROUND

- 1 On February 24, 2016, the Washington Utilities and Transportation Commission (Commission) assessed a \$700 penalty (Penalty Assessment) against Advance Relocation Expert, LLC d/b/a A.R.E. (A.R.E. or Company) for seven violations of Washington Administrative Code (WAC) 480-15-570, which adopts by reference 49 C.F.R. Part 391 related to driver qualifications.
- 2 On March 10, 2016, A.R.E. responded to the Penalty Assessment admitting the violations and requesting mitigation of the penalty based on the written information provided. The Company's owner, Austine Thompson, explained that he inadvertently allowed his medical certification card to expire, and was not aware of the requirement to maintain a driver qualification file for himself. Mr. Thompson has since renewed his medical certification card, created a driver qualification file, and voluntarily attended a safety training class.
- 3 On March 15, 2016, Commission staff (Staff) filed a response recommending the Commission grant the Company's request for mitigation, in part. Staff explains that although all 11 violations cited in the Penalty Assessment are first-time offenses, seven warrant penalties because they present a risk of serious harm to the public. The Penalty Assessment includes a \$600 penalty for six violations of 49 C.F.R. Part 391.45(a) and a \$100 penalty for one violation of C.F.R. Part 391.51(a). Staff recommends the Commission assess a reduced penalty of \$400.

DISCUSSION AND DECISION

- 4 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.¹ In some cases, Commission requirements are so fundamental to safe operations that the Commission will issue penalties for first-time violations.² Violations defined by federal law as “critical,” which are indicative of a breakdown in a carrier’s management controls, meet this standard.³
- 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.⁴
- 6 The Penalty Assessment includes a \$600 penalty for six violations of 49 C.F.R. Part 391.45(b)(1) because Mr. Thompson drove on six occasions without being medically certified. In its response, the Company explained that it inadvertently overlooked the fact that Mr. Thompson’s medical certificate had lapsed, but he has since been recertified. Staff recommends the Commission mitigate this portion of the penalty to \$300 because Mr. Thompson corrected the violation the day after the Commission performed the compliance review. We agree with Staff. Because the Company took prompt corrective action to cure the violation, we assess a reduced penalty of \$50 per violation, or \$300.
- 7 The Penalty Assessment also includes a \$100 penalty for one violation of 49 C.F.R. Part 391.51(a) for failing to maintain a driver qualification file for Mr. Thompson. Mr. Thompson explained that he mistakenly believed this requirement applied only to company employees, not company owners. Staff recommends the Commission deny the Company’s request for mitigation of this portion of the penalty. We agree with Staff’s recommendation. It is the Company’s responsibility to ensure compliance with Commission rules, and the Company was aware that its operations should mirror those outlined in the Commission’s publication, “Your Guide to Achieving a Satisfactory

¹ See RCW 81.04.405.

² Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission ¶12 (Jan. 7, 2013) (Enforcement Policy).

³ 49 C.F.R. § 385, Appendix B.

⁴ Enforcement Policy ¶19.

Safety Rating.” In addition, the Company did not introduce any new information that warrants a penalty reduction. Accordingly, we decline to mitigate this portion of the penalty.

ORDER

THE COMMISSION ORDERS:

- 8 (1) Advance Relocation Expert, LLC d/b/a A.R.E.’s request for mitigation of the \$700 penalty is GRANTED, in part, and the penalty is reduced to \$400.
- 9 (2) The \$400 penalty is due and payable no later than April 13, 2016.
- 10 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 March 30, 2016.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

STEVEN V. KING
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. 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 website.