**BEFORE THE WASHINGTON**

**UTILITIES AND TRANSPORTATION COMMISSION**

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| In the Matter of a Penalty Assessment Against  TLC MOVING AND STORAGE, INC.  in the amount of $1,000 | DOCKET TV-160646  ORDER 01  ORDER DENYING CONTEST OF VIOLATIONS; DENYING REQUEST FOR HEARING; GRANTING MITIGATION TO $250 |

**BACKGROUND**

1. On February 29, 2016, the Washington Utilities and Transportation Commission (Commission) mailed annual report and regulatory fee forms to all household goods carriers. The forms included a reminder that companies must file their annual reports and pay their regulatory fees by Monday, May 2, 2016, or face penalties of $100 for each violation of Commission rules. In the case of continuing violations, each day’s continuance is a separate violation. RCW 80.04.405.
2. TLC Moving and Storage, Inc. (TLC or Company) did not file its annual report on May 2, 2016, and had not made that filing by May 16. On June 29, the Commission assessed a penalty of $1,000 against TLC, calculated as $100 per business day from May 2 to May 16.
3. On July 7, 2016, TLC filed its annual report and paid the required regulatory fee. That same day, TLC responded to the Commission’s penalty assessment requesting a hearing and contesting the violations. In its response, the Company states, “I faxed my report on 5/10/2016 to UTC Attn: Shawn.”
4. On July 22, 2016, Commission staff (Staff) filed a response recommending a penalty reduction to $25 per day, or $250. Although the Company received and paid a $25 penalty for filing its annual report one day late in 2013, the Company has been active since 2005 and has otherwise filed on time. Staff noted that TLC provided a fax log showing that its attempt to fax its annual report to the Commission on May 10 did not go through, and the Company acknowledged that it originally overlooked the fact that the fax failed to transmit.

**DISCUSSION**

1. WAC 480-15-480 requires household good carriers to file annual reports and pay regulatory fees by May 1 of each year, or the first business day thereafter. Companies are responsible for complying with their legal obligations, and the Company should have ensured its report was filed by the due date.
2. 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. Commission records show that the Company’s annual report was not received until July 7, 2016. The facts, therefore, are undisputed, and the law is clear. Accordingly, the Company’s request for a hearing is denied.
3. The Commission also denies the Company’s contest of the violations. The undisputed facts demonstrate that the Commission received the Company’s annual report on July 7, 2016. The Company has thus violated the law.
4. We will, however, construe the Company’s submission as a request for mitigation and assess a reduced penalty. The Commission may consider a number of factors when entertaining a request for mitigation, including whether the violation was promptly corrected, a company’s history of compliance, and the likelihood the violation will recur.[[1]](#footnote-1) Here, TLC has since corrected the violation by filing its annual report and paying its regulatory fee. In addition, the Company filed its annual report one day late in 2013, but has otherwise submitted its annual reports by the deadline since it became regulated in 2005. Given the Company’s history of compliance, the violations are not likely to recur. In light of these factors, the Commission will exercise its discretion to reduce the penalty to $250.

**ORDER**

THE COMMISSION ORDERS:

1. (1) TLC Moving and Storage, Inc.’s request for a hearing is DENIED.
2. (2) TLC Moving and Storage, Inc.’s contest of the violations is DENIED.
3. (3) TLC Moving and Storage, Inc.’s request for mitigation of the $1,000 penalty is GRANTED in part, and the penalty is reduced to $250.
4. (4) The $250 penalty is due and payable no later than August 24, 2016.
5. 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 August 10, 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.**

1. Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission (January 7, 2013). [↑](#footnote-ref-1)