

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment
Against

SEATTLE MOVES & MORE LLC

in the amount of \$600

DOCKET TV-180748

ORDER 01

ORDER DENYING MITIGATION

BACKGROUND

- 1 On October 2, 2018, the Washington Utilities and Transportation Commission (Commission) assessed a \$600 penalty (Penalty Assessment) against Seattle Moves & More LLC (Seattle Moves or Company) for five violations of WAC 480-15-555, Criminal Background Checks for Prospective Employees, and one violation of WAC 480-15-560, Equipment Safety Requirements.¹ The Penalty Assessment directed the Company to file a response within 15 days of receipt of the Penalty Assessment.
- 2 On November 6, 2018, Seattle Moves responded to the Penalty Assessment, requesting mitigation of the penalty, but providing no information to support the request (Mitigation Application).
- 3 On November 15, 2018, Commission staff (Staff) filed a response to the Mitigation Application, recommending that the Commission deny the Company's request (Staff Response). Stating that the Mitigation Application is untimely and incomplete, Staff recommends no mitigation of the \$600 penalty.

DISCUSSION AND DECISION

- 4 Washington law requires household goods carriers to comply with federal safety requirements. Violations of the Commission's rules are subject to penalties of \$100 per violation.² In some cases, Commission requirements are so fundamental to safe

¹ WAC 480-15-560 adopts by reference sections of Title 49 of the C.F.R. Thus, Commission safety regulations with parallel federal rules are hereinafter referenced only by the applicable provision of 49 C.F.R. The violation noted in the Penalty Assessment is of 49 C.F.R. § 396.3(b).

² See RCW 81.04.405.

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,⁴ meet this standard.

5 The Commission considers several factors when entertaining a request for mitigation, including whether a 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 We address each violation category in turn.

6 **WAC 480-15-555.** The Penalty Assessment includes a \$500 penalty for five violations of WAC 480-15-555, which requires carriers to complete a criminal background check for prospective employees. The Company provided no information related to this violation in its Mitigation Application.

7 Staff recommends no mitigation of this penalty because the Company failed to address this violation in the Mitigation Application. We agree. As noted in the Penalty Assessment, household goods carriers that fail to conduct criminal background checks on prospective employees place customers and their belongings at risk. As described in the Penalty Assessment, Seattle Moves failed to acquire criminal background checks for five prospective employees. The Company failed to introduce any new information or explain extenuating circumstances that would warrant a reduced penalty. Accordingly, we decline to mitigate this portion of the penalty.

8 **49 C.F.R. § 396.3(b).** The Penalty Assessment also includes a \$100 penalty for one violation of 49 C.F.R. § 396.3(b), which requires a motor carrier to maintain certain inspection and maintenance records for each vehicle that it controls. The Company provided no information related to this violation in the Mitigation Application.

9 Staff recommends no mitigation of this penalty because the Company failed to address this violation in the Mitigation Application. We agree. As noted in the Penalty Assessment, companies that fail to keep records of vehicle inspection and maintenance put the traveling public at risk. Seattle Moves failed to keep required records for the two

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.

examined vehicles. In its Mitigation Application, the Company did not introduce any new information or explain extenuating circumstances that would warrant a reduced penalty.

- 10 To reduce the financial impact of the \$600 penalty, the Company may work with Staff to establish a mutually agreeable payment arrangement.

FINDINGS AND CONCLUSIONS

- 11 (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.
- 12 (2) Seattle Moves is a household goods carrier subject to Commission regulation.
- 13 (3) Seattle Moves violated WAC 480-15-555 by failing to obtain criminal background checks prior to hiring five of its employees.
- 14 (4) Seattle Moves should be penalized \$500 for five violations of WAC 480-15-555.
- 15 (5) Seattle Moves violated 49 C.F.R. Part 391.45(a) when it failed to maintain required inspection and maintenance records for two vehicles.
- 16 (6) Seattle Moves should be penalized \$100 for one violation of 49 C.F.R. § 396.3(b).
- 17 (7) Seattle Moves should be permitted to file jointly with Staff a mutually agreeable arrangement for paying the \$600 penalty.

ORDER

THE COMMISSION ORDERS:

- 18 (1) Seattle Moves & More LLC's request for mitigation of the \$600 penalty is DENIED.
- 19 (2) Seattle Moves & More LLC must either pay the penalty or file jointly with Staff a proposed payment arrangement no later than December 17, 2018.

20 The Secretary has been delegated authority to enter this order on behalf of the Commission under WAC 480-07-904(1).

DATED at Olympia, Washington, and effective December 3, 2018.

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(4), 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.