

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Penalty Assessment Against ROCKET VAN LINES LLC, D/B/A ROCKET PRO MOVERS; LAKE CDA PRO MOVERS, in the amount of \$1,700	DOCKET-TV-230634 ORDER 01 DENYING MITIGATION, IN PART, SUSPENDING PENALTY
---	--

BACKGROUND

- 1 On August 28, 2023, the Washington Utilities and Transportation Commission (Commission) issued a \$1,700 penalty (Penalty Assessment) against Rocket Van Lines LLC, d/b/a Rocket Pro Movers; Lake CDA Pro Movers, (Rocket Van Lines or Company). The Commission found that Company violated Washington Administrative Code (WAC) 480-15-550, Cargo Insurance; WAC 480-15-555, Criminal Background Checks for Prospective Employees; and WAC 480-15-570, Driver Safety Requirements, which adopts Title 49 Code of Federal Regulations (49 C.F.R) Part 391.45(a)¹ – Qualification of Drivers, as follows:
 - A \$800 penalty for 8 violations of WAC 480-15-550 for failure to maintain cargo insurance while operating a motor vehicle as required.
 - A \$800 penalty for 8 violations of WAC 480-15-555 for failure to conduct or retain paperwork containing criminal background checks or hiring an individual with disqualifying conviction for a household goods carrier in the state of Washington.
 - A \$100 penalty for 1 violation of 49 C.F.R. §391.45(a) for using a driver that is not medically examined or certified.
- 2 On August 29, 2023, the Company filed with the Commission an application for mitigation of penalties. In the request for mitigation, Amanda Conner, operation manager of Rocket Van Lines, admits the violations, and asks that the penalties be waived entirely.
- 3 On September 7, 2023, Staff filed a response to the request for mitigation. Staff recommends no mitigation for failing to check the employee’s criminal history, as it is a danger to customer goods and safety. However, Staff recommends mitigating the

¹WAC 480-30-221 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.

portions of the penalty attributable to failing to maintain cargo insurance and failing to provide proof of a valid medical certificate because the Company promptly corrected the mistake before the investigation was completed.

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.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” meet this standard.⁴
- 5 Violations classified as “critical” are indicative of a breakdown in a carrier’s management controls. Critical violations are subject to penalties of \$100 per violation.⁵
- 6 Several factors are considered 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.⁶ The Commission will consider other factors when entertaining a request for mitigation, like the seriousness of the violations, whether they were intentional, the company’s cooperation and responsiveness, and whether the company promptly corrected them.⁷ The Commission also considers the size of the company, the company’s past performance regarding compliance, and the likelihood of recurrence.⁸
- 7 Staff recommends that the Commission mitigate the total assessed penalty from \$1,700 to \$900, based on the promptness and immediacy of corrective behavior once aware of the non-compliance. The Company has not displayed any compliance plan, but previously attended technical assistance acknowledging these kinds of violations.
- 8 When deliberating whether or not to suspend a penalty, the Commission will consider whether the circumstance is a first-time penalty, whether the company has taken specific

² See RCW 81.04.405

³ Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission ¶12, 15 (Jan. 7, 2013) (Enforcement Policy).

⁴ 49 C.F.R. § 385, Appendix B

⁵ See RCW 81.04.405.

⁶ Enforcement Policy ¶19

⁷ Enforcement Policy ¶15

⁸ *Id.*

actions to remedy the violations and ensure future compliance, whether a compliance plan is in place, if there will be a future investigation at the end of the probationary period, or whether the company demonstrates other circumstances which warrant suspension of the penalty.⁹

- 9 Here, Staff submits that the Company promptly met the requirements of WAC 480-15-550 (failing to maintain requisite insurance) after Staff indicated the deficiency. Additionally, the company failed to conduct a background check on an employee (Mr. Moylan) pursuant to WAC 480-15-555, until one month after the beginning of employment. Staff asserts that this raises significant concerns about the security of a customer's belongings and personal safety. Finally, upon recommendation of the Idaho State Police, the Company did not believe it was necessary for non-CDL drivers to obtain medical certification under 49 C.F.R. 391.45(a).
- 10 We disagree with Staff's recommendation to mitigate a portion of the penalty associated with violations of WAC 480-15-550, 480-15-555, and 49 C.F.R. § 391.45(a). Even though the Company later corrected the violations upon discovery, at this time, no compliance plan is in place, no future investigation is scheduled, nor are there any mitigating circumstances that have been brought to the Commission's attention.
- 11 We believe under the circumstances in this case that suspension is a more appropriate solution that can have a mitigating effect on the penalty while providing incentive for the Company to improve its practices. The Commission's interest in any enforcement action is compliance. We thus suspend an \$800 portion of the penalty for two years, at which point we will waive it, , subject to the following conditions: 1) Rocket Van Lines does not incur any repeat violations of WAC 480-15-555, or 49 C.F.R. §391.45(a) during the suspension period, and 2) Rocket Van Lines pays the \$900 portion that is not suspended within 10 days of the effective date of this Order. If Rocket Van Lines fails to comply with either condition, the \$800 suspended portion of the penalty will become immediately due and payable without further Commission order.

FINDINGS AND CONCLUSIONS

- 12 (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.
- 13 (2) Rocket Van Lines is a household goods carrier subject to Commission regulation

⁹ Enforcement Policy ¶20

- 14 (3) Rocket Van Lines violated WAC 480-15-550 when it failed maintain adequate cargo insurance while operating a motor vehicle as required on 8 occasions.
- 15 (4) The Commission should penalize Rocket Van Lines for \$800 for eight violations of WAC 480-15-550.
- 16 (5) Rocket Van Lines violated WAC 480-15-555 for failure to conduct or retain paperwork containing criminal background checks or hiring an individual with disqualifying conviction for a household goods carrier in the state of Washington on 8 occasions.
- 17 (6) The Commission should penalize Rocket van Lines for \$800 for eight violation of WAC 480-15-555.
- 18 (7) Rocket Van Lines violated 49 C.F.R. §391.45(a) once for using a driver that is not medically examined or certified.
- 19 (8) The Commission should penalize Rocket Van Lines \$100 for one violation of 49 C.F.R. §391.45(a).
- 20 (9) The Commission should decline to mitigate any portion of the penalty.
- 21 (10) The Commission should suspend an \$800 portion of the penalty for two years, and then waive it, subject to the conditions noted above in paragraph 11.

ORDER

THE COMMISSION ORDERS That:

- 22 (1) Rocket Van Lines LLC d/b/a; Rocket Pro Movers; Lake CDA Pro Movers' request for mitigation is of the \$1,700 penalty is DENIED.
- 23 (2) An \$800 portion of the total \$1,700 penalty is suspended for a period of two years then waived, subject to the following conditions: 1) Rocket Van Lines LLC d/b/a; Rocket Pro Movers; Lake CDA Pro Movers does not incur any repeat violations of WAC 480-15-550, WAC 480-15-555, 49 C.F.R. §391.45(a), and 2) Rocket Van Lines LLC d/b/a; Rocket Pro Movers; Lake CDA Pro Movers pays the \$900 portion of the penalty that is not suspended within 10 days of the effective date of this Order.
- 24 (3) In the event that Rocket Van Lines LLC d/b/a; Rocket Pro Movers; Lake CDA Pro Movers fails to comply with the conditions of suspension noted in paragraph 11 of this Order, the \$800 suspended portion of the penalty will become immediately due and payable without further Commission order.

25 The Secretary has been delegated authority to enter this order on behalf of the Commissioners under WAC 480 07-903(2)(e).

DATED at Lacey, Washington, and effective September 21, 2023

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

KATHY HUNTER
Acting 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.