

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment
Against

QUEEN CITY BUSINESS MOVERS,
LLC, D/B/A QUEEN CITY MOVERS,

in the amount of \$5,700

DOCKET TV-220241

ORDER 01

DENYING MITIGATION

BACKGROUND

- 1 On April 26, 2022, the Washington Utilities and Transportation Commission (Commission) assessed a \$5,700 penalty (Penalty Assessment) against Queen City Business Movers, LLC, d/b/a Queen City Movers (Queen City Movers or Company) for 57 violations of Washington Administrative Code (WAC) 480-15-570, which adopts by reference Title 49 Code of Federal Regulations (C.F.R.).¹ The Penalty Assessment includes a \$5,700 penalty for 57 violations of 49 C.F.R. § 391.45(a) for using a driver not medically examined and certified.
- 2 On April 28, 2022, the Company filed with the Commission an application for mitigation of penalties (Application), admitting the violations and requesting that the penalty be reduced based on the written information provided. The Company explains in its Application that it thought that the driver had medical certification from previous employment.
- 3 On March 4, 2021, Commission staff (Staff) filed a response recommending the Commission deny the Application. In its response, Staff points out that the Company had previously filed a safety management plan (SMP) in consolidated dockets TV-200870 and TV-200869. The SMP included details of the system Queen City Movers implemented specifically to prevent such violations.
- 4 On May 16, 2022, the Company reached out to the Commission to request to pay the penalty in installments.

¹ WAC 480-15-560 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.

DISCUSSION AND DECISION

- 5 Washington law requires household goods carriers to comply with federal safety requirements and undergo routine safety inspections. In some cases, Commission requirements are so fundamental to safe operations that the Commission will issue penalties for first-time violations.²
- 6 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.³ The Commission also considers whether the violations were promptly corrected, a company's history of compliance, and the likelihood the violation will recur.⁴
- 7 The Penalty Assessment assessed a \$5,700 penalty for 57 violations of 49 C.F.R. § 391.45(a) for using a driver that was not medically examined or certified on 57 occasions. In its Application, Queen City Movers acknowledges the violation, but states only that it was misinformed about the newly hired driver's certification status.
- 8 Staff recommends no mitigation of the penalty. We agree. Household goods carriers who use drivers who have not been medically examined and certified put their customers, their customers' belongings, and the traveling public at risk. The Company's explanation fails to introduce new information or explain circumstances that would support reduction of the penalty. The failure of the Company to verify its employee's certification status is not only a violation of 49 C.F.R. §391.45(a), but a failure to abide by the Company's own SMP. Accordingly, we find that the \$5,700 penalty assessed for one violation of 49 C.F.R. § 391.45(a) is appropriate in light of the circumstances and conclude that no mitigation is warranted.

FINDINGS AND CONCLUSIONS

- 9 (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

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

³ Enforcement Policy ¶19.

⁴ Enforcement Policy ¶15.

companies, including household goods carriers, and has jurisdiction over the parties and subject matter of this proceeding.

- 10 (2) Queen City Movers is a household goods carrier subject to Commission regulation.
- 11 (3) Queen City Movers violated 49 C.F.R. § 391.45(a) when it used a driver that was not medically examined and certified on 57 occasions.
- 12 (4) Queen City Movers should be penalized \$5,700 for 57 violations of 49 C.F.R. §391.45(a).

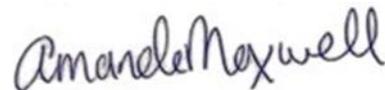
ORDER

THE COMMISSION ORDERS:

- 13 (1) Queen City Business Movers, LLC, d/b/a Queen City Movers' request for mitigation of the \$5,700 penalty is DENIED.
- 14 (2) The Company must work with Staff to file an agreed payment plan no later than June 20, 2022.
- 15 The Secretary has been delegated authority to enter this order on behalf of the Commissioners under WAC 480-07-904(1)(h).

DATED at Lacey, Washington, and effective June 8, 2022.

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.