



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION
1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250
(360) 664-1160 • www.utc.wa.gov

July 28, 2014

Steven V. King, Executive Director and Secretary
Utilities and Transportation Commission
1300 S. Evergreen Park Dr. SW
P.O. Box 47250
Olympia, WA 98504-7250

RE: *Washington Utilities and Transportation Commission v. Bens Moving & Delivery Services, Inc.*

Commission Staff's Response to Application for Mitigation of Penalties TV-140944

Dear Mr. King:

On June 4, 2014, the Utilities and Transportation Commission issued a \$1,000 Penalty Assessment in Docket TV-140944 against Bens Moving & Delivery Services, Inc. for 10 violations of Washington Administrative Code (WAC) 480-15-480, which requires household goods carrier companies to furnish annual reports to the commission no later than May 1 each year.¹

On June 12, 2014 Bens Moving & Delivery Services, Inc. submitted a request for a hearing but failed to provide a written statement.² On July 7, 2014 the commission issued a notice denying the request for hearing, but allowed for opportunity to submit reason(s) in support for application for mitigation within one week of the service date.³ In its Mitigation Request⁴ which was received by the commission on July 14, 2014, Bens Moving & Delivery Services, Inc. does not dispute that the violation occurred. The company provided a statement regarding financial hardship and foreclosure and claims "nothing to report except our loss".

It is the company's responsibility to ensure that the regulatory fee is paid and the annual report is filed by the May 1 deadline. On February 28, 2014, Annual Report packets were mailed to all regulated household goods companies. The instructions for annual report completion page of the annual report informed the regulated company that it must complete the annual report form, pay the regulatory fees, and return the materials by May 1, 2014, to avoid enforcement action.

¹See attachment A for a copy of the penalty assessment sent on June 4, 2014

²See attachment B for a copy of Bens Moving's Hearing Request received on June 12, 2014

³See attachment C for a copy of the Notice Denying Hearing Request sent on July 7, 2014

⁴See attachment D for a copy of Ben Moving's Mitigation Request received on July 14, 2014

UTC Annual Reports
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As of July 25, 2014, Bens Moving and Delivery Service, Inc. has yet to file the 2013 Household Goods Annual Report. The company has been active since September 5, 2013. No previous violations of WAC 480-15-480 are on commission record. Due to the significant financial hardship described by the company, staff supports the company's request for mitigation. Staff recommends a reduced total assessed penalty of \$200 with the requirement the completed 2013 Household Goods Annual Report is submission to the commission within ten (10) business days.

If you have any questions regarding this recommendation, please contact Amy Andrews, Regulatory Analyst, at (360) 664-1157, or aandrews@utc.wa.gov.

Sincerely,

Sondra Walsh, Director
Administrative Services

¹See attachment A for a copy of the penalty assessment sent on June 4, 2014

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ATTACHMENT A

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

NOTICE OF PENALTIES INCURRED AND DUE FOR VIOLATIONS OF LAWS AND RULES

PENALTY ASSESSMENT: TV-140944
PENALTY AMOUNT: \$1,000

Bens Moving & Delivery Services, Inc.
12040 Greenwood Ave N
Seattle, WA 98133

According to Washington Utilities and Transportation Commission (Commission) records, you have violated Washington Administrative Code (WAC) 480-15-480, which requires household goods carrier companies to file their annual reports and pay regulatory fees each year by May 1. You did not file an annual report or pay regulatory fees by May 1, 2014.

Revised Code of Washington (RCW) 81.04.080 authorizes the Commission to assess penalties of \$100 for violations of Commission rules. Each violation is a separate and distinct offense and, in the case of a continuing violation, every day's continuance is a separate and distinct violation. The Commission interprets noncompliance with WAC 480-15-480 beyond May 1 as a continuing violation, and assesses penalties of \$100 for each day a company fails to file its report or pay its regulatory fees after that date.

As a result, the Commission has assessed penalties against you in the amount of \$1,000 on the following basis:

On February 28, 2014, the Commission mailed the 2013 annual report forms and the 2014 regulatory fee packets to all household goods carrier companies registered in Washington. The instructions page for the annual report form instructed these companies to file annual reports and pay regulatory fees by May 1, 2014. The instructions page also stated that failure to file the annual report by May 1 would result in penalties. The deadline for requesting an extension to file your annual report was April 17. You did not request an extension.

As of May 15, 2014, Bens Moving & Delivery Services, Inc. has not filed its 2013 annual report or paid its 2014 regulatory fee. May 15 is 10 business days from May 1, resulting in a total penalty of \$1,000.

Your penalty is due and payable now. If you believe the violation did not occur, you may request a hearing to contest the penalty assessment. The Commission will grant that request only if material issues of law or fact require consideration of evidence and resolution in a hearing. A request for a hearing must include a written statement of the reasons supporting that request.

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Failure to provide such a statement will result in denial of the request. If there is a reason for the violation that you think should excuse or reduce the penalty, you may ask for mitigation (reduction) of this penalty through evidence presented at a hearing or in writing. A request for mitigation must include a written statement of the reasons supporting that request. Failure to provide such a statement will result in denial of the request. See RCW81.04.405.

If you properly present your request for a hearing and the Commission grants that request, the Commission will review the evidence supporting your dispute of the violation or application for mitigation in a Brief Adjudicative Proceeding, before an administrative law judge. The administrative law judge will consider the evidence and will notify you of his or her decision.

You must act within 15 days after receiving this notice to do one of the following:

- Pay the amount due.
- Request a hearing to contest the occurrence of the violations.
- Request mitigation to contest the amount of the penalty.

Please indicate your selection on the enclosed form and send it to the Washington Utilities and Transportation Commission, Post Office Box 47250, Olympia, Washington 98504-7250, **within FIFTEEN (15) days** after you receive this notice.

If you do not act within 15 days, the Commission may refer this matter to the Office of the Attorney General for collection, which may file suit in state court to collect the penalty. The Commission may also initiate proceedings under WAC 480-15-450 to cancel your permit to operate as a household goods carrier in Washington.

DATED at Olympia, Washington, and effective June 4, 2014.

DENNIS J. MOSS
Administrative Law Judge

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WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT TV-140944

PLEASE NOTE: You must complete and sign this document, and send it to the Commission within 15 days after you receive the penalty assessment. Use additional paper if needed.

I have read and understand RCW 9A.72.020 (printed below), which states that making false statements under oath is a class B felony. I am over the age of 18, am competent to testify to the matters set forth below and I have personal knowledge of those matters. I hereby make, under oath, the following statements.

1. **Payment of penalty.** I admit that the violations occurred. I have:

Enclosed \$ _____ in payment of the penalty

Submitted my payment of \$ _____ online at www.utc.wa.gov. My confirmation number is _____.

2. **Request for a hearing.** I believe that one or more of the alleged violations did not occur, for the reasons I describe below, and I request a hearing based on those reasons for a decision by an administrative law judge:

3. **Application for mitigation.** I admit the violations, but I believe that the penalty should be reduced for the reasons set out below:

a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision

OR b) I ask for a Commission decision based solely on the information I provide above.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing, including information I have presented on any attachments, is true and correct.

Dated: _____ [month/day/year], at _____ [city, state]

Name of Respondent (company) – please print

Signature of Applicant

RCW 9A.72.020:

“Perjury in the first degree. (1) A person is guilty of perjury in the first degree if in any official proceeding he makes a materially false statement which he knows to be false under an oath required or authorized by law. (2) Knowledge of the materiality of the statement is not an element of this crime, and the actor’s mistaken belief that his statement was not material is not a defense to a prosecution under this section. (3) Perjury in the first degree is a class B felony.”

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ATTACHMENT B

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT TV-140944

PLEASE NOTE: You must complete and sign this document, and send it to the Commission within 15 days after you receive the penalty assessment. Use additional paper if needed.

I have read and understand RCW 9A.72.020 (printed below), which states that making false statements under oath is a class B felony. I am over the age of 18, am competent to testify to the matters set forth below and I have personal knowledge of those matters. I hereby make, under oath, the following statements.

2014 JUN 12 AM 8:07

[] 1. Payment of penalty. I admit that the violations occurred. I have:

[] Enclosed \$ _____ in payment of the penalty

[] Submitted my payment of \$ _____ online at www.utc.wa.gov. My confirmation number is _____.

[X] 2. Request for a hearing. I believe that one or more of the alleged violations did not occur, for the reasons I describe below, and I request a hearing based on those reasons for a decision by an administrative law judge:

[] 3. Application for mitigation. I admit the violations, but I believe that the penalty should be reduced for the reasons set out below:

[X] a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision

OR [] b) I ask for a Commission decision based solely on the information I provide above.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing, including information I have presented on any attachments, is true and correct.

Dated: 6/05/2014 [month/day/year], at Seattle, WA [city, state]

Bens Moving and Delivery Services Inc. Name of Respondent (company) - please print

Irsael Paredes Signature of Applicant

RCW 9A.72.020:

"Perjury in the first degree. (1) A person is guilty of perjury in the first degree if in any official proceeding he makes a materially false statement which he knows to be false under an oath required or authorized by law. (2) Knowledge of the materiality of the statement is not an element of this crime, and the actor's mistaken belief that his statement was not material is not a defense to a prosecution under this section. (3) Perjury in the first degree is a class B felony."

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ATTACHMENT C

[Service Date July 7, 2014]



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION
1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250
(360) 664-1160 • www.utc.wa.gov

July 7, 2014

**NOTICE DENYING REQUEST FOR HEARING
AND
NOTICE OF OPPORTUNITY TO SUBMIT REASON(S) IN SUPPORT OF
APPLICATION FOR MITIGATION
(By Monday, July 14, 2014)**

RE: Bens Moving & Delivery Services, Inc., Request for Mitigation of Penalty Assessment, Docket TV-140944

TO ALL PARTIES:

On June 4, 2014, the Washington Utilities and Transportation Commission (Commission) issued and served Penalty Assessment TV-140944 against Bens Moving & Delivery Services, Inc. (Bens Moving or Company) in the amount of \$1,000, alleging a violation of WAC 480-15-480, which requires permitted household goods companies to file annual reports with the Commission by May 1 each year and pay regulatory fees annually on that date.

On June 12, 2014, Bens Moving filed with the Commission a request for hearing on the form provided by the Commission. Bens Moving checked the box on that form indicating that the Company believes that one or more of the violations did not occur for which penalties were assessed. The form, however, conditions the opportunity for hearing on Bens Moving providing a written statement of the reasons the Company believes the alleged violation did not occur. Because Bens Moving failed to provide a basis for its request for a hearing, the Commission denies that request. The Commission nevertheless will consider the Company's request for mitigation of the assessed penalty on the basis of a written submission of the reasons supporting such mitigation if the Commission receives that submission no later than one week from the date of this Notice.

THE COMMISSION GIVES NOTICE That Bens Moving's request for hearing is denied.

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ATTACHMENT D

this is the first letter that I received.
my petition to pay the penalty fee was denied.

A second letter was received with the denial
but hearing petition accepted. I lost that
mail. I'm hoping that you could assist me
to direct my letter attached to the proper
office. Thank you Israel Peches
bensmovingco@gmail.com

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Ben's Moving and Delivery Service Inc.
UTC:0001903
Regarding Docket Number(s) 140944

Seattle, July 11, 2014

To: Utilities and Transportation Commission,

This is a letter regarding the Notice of Penalties Incurred and Due for Violations of Laws and Rules-
Penalty and denial of our petition.

One of the reasons that we did not comply with the WA State on a timely manner was because during the months of November, through April our family went through foreclosure and lost our house. We had a fierce battle with the lawyers and the bank but we couldn't save our home.

We were forced out of your property in February of 2014, and did not have a permanent residence until late the first week of June. Craigslist totally blocked us out of their website from November of 2013 through end of April 2014; therefore we did not have any business to report and we were financially hurting and unable to hire a professional accountant but most of all we had nothing to report except our loss. We had a very hard time this year and we haven't really started our business as we planned. Our Craigslist's competitors have been flagging our company and that has prevented us from continuing our business.

This is our formal petition for a hearing. We would love to have a chance to make an appointment to explain our financial situation and the reasons for not filing the annual report by the deadline, with that said, we'll be waiting for your response. Please feel free to contact us through email as well.

This is our new business address, please make the appropriate changes. We are supposed to renew our WA State License and we will provide our new address to them as well.

Ben's Moving and Delivery Service Inc.
11544 Greenwood Ave. N. Unit #1
Seattle, WA 98133
Bensmovingco@gmail.com
206-673-6122

Israel Paredes
Bens Moving & Delivery Services Inc.

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2014 JUL 14 AM 8:16