

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

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

5 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.

6 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.

7 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.

8 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
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:

9 (1) TLC Moving and Storage, Inc.'s request for a hearing is DENIED.

¹ Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation
Commission (January 7, 2013).

- 10 (2) TLC Moving and Storage, Inc.'s contest of the violations is DENIED.
- 11 (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.
- 12 (4) The \$250 penalty is due and payable no later than August 24, 2016.
- 13 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.