

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET TV-180394
RELO6 LLC d/b/a TWO MEN AND A TRUCK	ORDER 01
in the amount of \$8,600	GRANTING MITIGATION TO \$4,300

BACKGROUND

- 1 On May 24, 2018, the Washington Utilities and Transportation Commission (Commission) assessed an \$8,600 penalty (Penalty Assessment) against RELO6 LLC d/b/a Two Men and a Truck (Two Men and a Truck or Company) for 86 critical violations of Washington Administrative Code (WAC) 480-15-570, which adopts by reference sections of Title 49 Code of Federal Regulations (C.F.R.).¹ The Penalty Assessment includes an \$8,600 penalty for 86 violations of 49 C.F.R. Part 391.45(a) related to using a driver not medically examined and certified.
- 2 On June 4, 2018, the Company responded to the Penalty Assessment, admitting the violations and requesting mitigation of the penalty based on the written information provided. In its request for mitigation, the Company explained that it corrected the error, and that it assigned responsibility for compliance with this requirement to its operations manager to ensure this violation does not reoccur.
- 3 On June 15, 2018, Commission staff (Staff) filed a response recommending the Commission grant the Company's request for mitigation, in part. Staff recommends the Commission reduce the \$8,600 penalty by half, to \$4,300, because the Company promptly corrected these first-time violations and established new procedures to prevent further occurrences of this fundamental safety requirement.

¹ WAC 480-15-560 and -570 adopt 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

- 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 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.⁵
- 6 The Penalty Assessment includes an \$8,600 penalty for 86 violations of 49 C.F.R. Part 391.45(a) because the Company allowed two employees to drive on 86 separate occasions while their medical certificates were expired. In its mitigation request, the Company admitted the violations and explained that the employee assigned the responsibility for keeping medical certificates up to date left his employment at the end of September, 2017. The Company discovered the violation and corrected it before Staff arrived onsite to conduct the investigation. The Company further explained that it reassigned responsibility for compliance with this requirement to the operations manager to prevent the violation from reoccurring. In addition, the Company asserts that no customer or road safety issues occurred as a result of the lapse, and that the Company has high customer satisfaction and referral rates.
- 7 Staff recommends that the Commission reduce the penalty by half to \$4,300 because the Company promptly corrected these first-time violations and established new procedures to prevent future occurrences of this fundamental safety requirement. We agree with Staff’s recommendation and assess a reduced penalty of \$4,300. Mitigation of the penalty is appropriate because this is a first-time violation and the Company promptly corrected the violation prior to Staff arriving at Company’s business to begin the investigation. In

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 Enforcement Policy ¶19.

addition, the Company has assigned responsibility for this requirement to its operations manager to ensure compliance going forward.

FINDINGS AND CONCLUSIONS

- 8 (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.
- 9 (2) Two Men and a Truck is a household goods carrier subject to Commission regulation.
- 10 (3) Two Men and a Truck violated 49 C.F.R. Part 391.45(a) when the Company allowed two employees to drive on 86 separate occasions without having been medically examined and certified.
- 11 (4) The Commission should penalize Two Men and a Truck \$4,300 for 86 violations of 49 C.F.R. Part 391.45(a).

ORDER

THE COMMISSION ORDERS:

- 12 (1) RELO6 LLC d/b/a Two Men and a Truck's request for mitigation of the \$8,600 penalty is GRANTED, in part, and the penalty is reduced to \$4,300.
- 13 (2) RELO6 LLC d/b/a Two Men and a Truck must either pay the \$4,300 penalty or file jointly with Staff a proposed payment arrangement within 10 days of the effective date of this Order.
- 14 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 July 16, 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(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.