

Agenda Date: October 14, 2021
Item Number: B1

Docket: TG-210535
Company Name: Clutter, Inc.

Staff: Scott Sevall, Regulatory Analyst
Andrew Roberts, Regulatory Analyst

Recommendation

Issue an Order granting Clutter, Inc.’s petition opening Tariff 15-C for revision and granting exemptions from WAC 480-15-490 and from Tariff 15-C Item 95(1)(g), Item 102(5)(b) and (c), Item 230(2), Item 230(3), Item 230(6), Item 230(7), Item 230(7)(ii) subject to the conditions listed in Staff’s memo.

Background

On July 2, 2021, Clutter, Inc. (Clutter or Company) filed with the Washington Utilities and Transportation Commission (Commission) a petition to revise Tariff 15-C and for temporary exemption from certain provisions of WAC 480-15 and Tariff 15-C. On August 30, 2021, Clutter filed a revised petition removing items from the original petition which had caused concern with Commission staff (Staff). Specifically, in the revised petition, Clutter requests the Commission open Tariff 15-C for revision and until that is affected, requests limited exemptions from the following:

Discussion

Clutter’s business model and conflict with Tariff 15-C

Clutter provides storage services and traditional household goods moves, but the business focus is on the storage services. For storage services Clutter utilizes a central warehouse to store personal goods; the price varies depending on the amount of space needed and the time stored. Clutter’s storage customers schedule property pickups and drop-offs via the company app, webpage, or phone, and the customer has a variety of pickup methods to choose from including third party delivery. Clutter also does some traditional household goods moves not associated with their storage business. These household goods move fall under activities regulated by Tariff 15-C. The revised petition for exemption does not affect Clutter’s traditional household goods moves. Instead, the revised petition is concerned with exemptions specifically for customers who have signed contracts for storage services.

With the nature of Clutter’s storage business model (centralized storage of personal property) a customer must hand their property over to an employee of Clutter, so the property can be placed in storage. WAC 480-15-020 defines a household goods carrier as “...a person who transports for compensation, by motor vehicle within this state, or advertising, soliciting, offering, or entering into an agreement to transport household goods.” Given Clutter has a household goods

permit, provides traditional moves, and their employees transport property to a central warehouse for storage, they must abide by Tariff 15-C rules and rates. Clutter's challenges with Tariff 15-C arise with the moves to storage and Tariff 15-C Item 102, which exempts some moves to storage.

Tariff 15-C Item 102 exempts from rates, rules, and charges published in section 2 and 3 of Tariff 15-C moves to storage that: are less than 25 items; less than 500 pounds total; and are reasonably carried by 1 person, this item has created situations where two very similar moves have different rates applied as one is rate-regulated and one is exempt from tariff rates. For example, a move containing 25 items is exempted from Item 102 where a move of 26 items is not, or a move that only contains five items with one item needing two people to carry it, would not be exempted because two people had to carry one item.

Clutter's revised petition seeks to resolve these situations. The petition filed August 30, 2021, seeks exemptions from WAC 480-15-490 and from Tariff 15-C Item 95(1)(g), Item 102 (5)(b) and (c) Item 230(2), Item 230(3), Item 230(6), Item 230(7), Item 230(7)(ii) when the Company and customer have a signed contract for storage services. Clutter does not seek any exemption for traditional household goods moves. These exemptions will allow Clutter to provide service on days like holidays and weekends without charging the four-hour minimum required by the tariff, bill a customer in actual time versus 15-minute increments, use the same bill of lading across all moves, and to set the charges the same way for all moves related to storage contracts. The Summary of Clutter's petition follows.

Clutter's Petition

A summary of the revised petition for exemptions follows:

- 1) Clutter seeks exemption from Tariff 15-C Item 230 and WAC 480-15-490 to allow the Company to bill one or more of the following in addition to their unregulated monthly storage fee: (1) a flat fee for transportation; (2) an hourly fee for labor based on the storage plan; (3) a flat rate per item. Clutter's storage service uses central warehouses to store customer property. Clutter prices a customer's ability to add or retrieve property under the storage contract, which is unregulated. With traditional storage a customer can access a garage type unit and place their own property into storage. Unlike traditional storage Clutter employees' inventory and place the property into the centralized warehouse for storage.
- 2) Clutter seeks exemption from Tariff 15-C Item 95(1)(g) to allow the Company to use 30 days to define permanent storage. Clutter is primarily a storage company and owns/controls the centralized warehouse where customers' property is stored. The liability for the property does not switch to another company at 30 days.
- 3) Clutter seeks exemption from Tariff 15-C Item 230(2) to allow the Company to bill customers in actual time when hourly rates apply instead of 15-minute increments. The Company's software allows for actual job time to be billed.

- 4) Clutter seeks exemption from Tariff 15-C Item 230(6) when hourly rates are applicable for storage related moves. Clutter requests an exemption from the requirement to charge between the minimum and maximum rate. Clutter requests the ability to charge no more than the maximum rate in Item 230 but not have a minimum rate.
- 5) Tariff 15-C, Item 230(7). Tariff 15-C, Item 230(3) currently specifies that the minimum charge for a move is one hour during the week, and Tariff 15-C, Item 230(7)(ii) requires a minimum charge of four hours for a move on the weekend/holiday. Clutter requests an exemption of the minimum charge of four hours before 8:00 am and after 5:00 pm, and Saturday, Sunday, or state-recognized holiday for moves involving storage. Clutter believes that Item 230(7)(ii) harms customers because it forces Clutter to charge customers for more hours than are necessary for performing smaller moves on weekends or holidays.
- 6) Tariff 15-C, Item 102 (5)(b) and (c). For moves that may be considered Small Goods Transportation and Storage, Clutter requests an exemption from Tariff 15-C, Item 102 (5)(b) and (c) and requests that it be allowed to use the Commission's standard bill of lading for such moves. Small Goods Transportation and Storage moves are exempt from the requirement to issue a bill of lading [see Tariff 15-C, Item 102(5)(a).] Rather, such moves are required to use a similar but different contract form. Clutter believes that the standard bill of lading contains all the required information and contains appropriate customer protection.
- 7) In addition to the above exemptions Clutter asks the Commission to begin the process of revising Tariff 15-C, so that Tariff 15-C language can be updated to add the flexibility needed, so an exemption would no longer be necessary.

Staff's Response

After review of the revised petition Staff recommends the Commission open Tariff 15-C for revision to the items in Clutter's request for exemptions, and in the meantime grant the company's petition for exemption subject to the conditions described below. Staff addresses the specific items petitioned for below:

- 1) WAC 480-15-490 Tariff rates and general
Clutter wants permission to charge its own rate structure based on size of move or length of storage contract. The charges or fees will be a flat rate, per item rate, or hourly rate. Staff recommends allowing these exemptions for the following reasons. First, allowing exemptions from tariff rates allows the customers to benefit from lower rates than published in Tariff-15-C as Clutter is not petitioning for exemption from the top of the rate band. Second, the Company can apply the same pricing structure to all customers. Currently a customer who moves 26 items would be charged tariff rates and a customer

moving 25 items is exempt from tariff rates, but there is little to no difference in the service being provided. Third, no exemption from consumer rules is requested, only exemptions for rates. Fourth, there is no foreseeable competitive advantage as this exemption only applies to Clutter’s customers who have signed storage contracts. Clutter cannot charge this rate structure to traditional moves.

Below are a few scenarios that staff reviewed during its review of this petition.

Scenario	Type of Fee	Total Charged	Calc. Hourly Cost	Within Tariff Band	Charge at midpoint of Band
Large number of items over long period of time, or initial placement into storage	Flat	\$894.00	\$18.55	Lower than Band	\$2,754
Medium number of items moved to storage or for shorter term	Hourly and Flat Transportation	\$314.50	\$69.89	Within Band	\$288.97
Customer adding or removing small number of items from goods already in storage.	Per Item	\$163.00	\$81.50	Within Band	\$128.43

Given Clutter’s request for rate exemption is only from the bottom of the rate band and that Staff’s review found no instances where the company charged higher than the rate band, the exemption is in the public interest. Furthermore, the Staff investigation in Docket TV-200432 found 93 violations for failing to bill the minimum tariff rate and zero instances of Clutter billing higher than the tariff rate.

- 2) Tariff 15-C Item 95(1)(g) to allow the Company to use 30 days to define permanent storage. Staff agrees as Clutter is the owner of the moving service and the warehouse. Under normal circumstances it would seem reasonable as the moving company and warehouse may not be owned by the same entity and it should be clear to customers who is responsible for the customer’s property.
- 3) Tariff 15-C Item 230(2) to allow the Company to bill customers in actual time when hourly rates apply instead of 15-minute increments. Staff agrees with this as customers should receive the benefit of a more accurate measurement of time in the cases where the company is able to do so. This exemption is also needed for the company’s ability to charge a flat rate or per item rate when applicable, as those types of charges are not time-based.
- 4) Tariff 15-C Item 230(6) to allow the Company to bill lower than the minimum rate. Staff agrees as customers should receive the benefit of efficiency and competition. This exemption, however, is requested only for customers with a storage contract. Storage

services operate in an unregulated competitive market. Customers have access via app, webpage, and phone where applicable rates and charges are listed and have access to their contract. If a customer is not satisfied with a proposed contract, they have other storage options with which they can compare and decide their best value. This request essentially expands the exemption from tariff rates provided in Item 102 of Tariff 15-C allowing the company to charge different rates than what is published in the tariff while maintaining customer protection rules. Staff believes customers should receive this benefit and would not be harmed.

- 5) Tariff 15-C Item 230(7) and Item 230(3) to exempt the Company from the requirement to bill the tariff minimum number of hours. Given Item 102 already exempts small moves to storage from this Item, this exemption is essentially granting the same benefits to a customer with a storage contract that has more items, weight, or larger items, than Item 102 currently allows. Without this exemption the company would be held to the minimum number of hours which are required by the tariff. This is incompatible with a flat fee or per item fee, and only serves to increase the hours charged when applying the hourly fee. There is no customer benefit gained by this requirement in the tariff. Staff agrees that this is in the best interest of customers.
- 6) Tariff 15-C, Item 102(5)(b) and (c). For moves that may be considered Small Goods Transportation and Storage, Clutter requests that it be allowed to use the Commission's standard bill of lading for such moves. Small Goods Transportation and Storage moves are exempt from the requirement to issue a bill of lading [See Tariff 15-C, Item 102(5)(a).] Rather, such moves are required to use a similar but different contract form. Staff agrees that the standard bill of lading and Item 102 contract are similar and believe that the standard bill of lading provides all the elements needed. Staff also notes that this exemption is only for language in the contract and the remaining terms in Item 102 such as the three-day requirement for delivery of items stated in Item 102(3)(a) still apply and are not exempt.

After reviewing Clutter's petition Staff has concluded that it is in the public interest to provide Clutter with an exemption from the specific items requested, given a few conditions: (1) the exemption shall expire May 1, 2022; (2) Clutter shall participate in the Staff led industry wide tariff revision process which has the scope to address items in its exemption requests in this petition. (3) Clutter shall reflect the information (i.e., number of workers, number of hours, etc.) in the bills of lading so the Commission can determine the rates charged to customers are below the maximum rates established in Tariff 15-C; (4) the exemptions only apply to moves where a storage contract is in place.

Conclusion

Issue an Order granting Clutter, Inc.'s petition opening Tariff 15-C for revision and granting exemptions from WAC 480-15-490 and from Tariff 15-C Item 95(1)(g), Item 102(5)(b) and (c), Item 230(2), Item 230(3), Item 230(6), Item 230(7), Item 230(7)(ii) subject to the conditions listed in Staff's memo.