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1 P R O C E E D I N G S

2 JUDGE CLARK: Good afternoon. It's
3 approximately 1:30, November 1st, 2006, in the
4 Commission's hearing room in Olympia, Washington. This
5 is the time and the place set for a brief adjudicative
6 proceeding in the matter of the penalty assessment
7 against Western Van Lines, Incorporated, in the amount
8 of \$100 given Docket TV-060980, Patricia Clark,
9 administrative law judge for the Commission presiding.

10 This matter came before the Commission on
11 July 5th, 2006, when the Commission assessed a penalty
12 in the amount of \$100 against Western Van Lines for one
13 violation of Washington Administrative Code 480-15-480,
14 Sub 4, which requires household goods carriers to file
15 annual reports with the Commission no later than May
16 1st of each year.

17 On July 10th, Western filed a request for
18 hearing. On July 28th, the Commission staff filed its
19 response to the request for hearing, and on October 11,
20 2006, the Commission issued a notice of brief
21 adjudication and scheduled the hearing for November 1,
22 2006.

23 This is a brief adjudicative proceeding, so
24 the intent is to be as informal as possible. What I
25 would like to do is make sure everyone understands what

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1 it is we are going to be doing this afternoon, so I'll
2 just explain that very briefly. One of the first
3 things that I would ask you to do is to let the court
4 reporter know your name and your address, and that's
5 called entering an appearance, and I'll take that from
6 both Western and from the Commission staff, who is also
7 present.

8 After we do that, I will have anyone who
9 intends to present a statement this afternoon to be
10 sworn in. I'll do that as a group so that anyone who
11 wants to give a statement will be sworn in at the same
12 time, and then I will basically give each side the
13 opportunity to tell me anything you would like to tell
14 me about this penalty assessment. I may ask you
15 questions. It would probably be more akin to a
16 conversation than any other kind of communication. If
17 the Commission staff through their attorney has any
18 questions, you will be allowed to do that, and then
19 when the Commission staff makes their statement, if you
20 have any questions, you will be permitted to ask them
21 questions.

22 If at any time we are going along in this
23 proceeding you don't understand what's happening, if
24 you have any questions, if there is anything I can
25 clarify about the process, please feel free to ask and

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1 I will try to address those for you. Anyone have any
2 questions?

3 The first thing I would like to do then is
4 take an appearance. Appearing on behalf of Western?

5 MR. DIJULIO: Matthew DiJulio, 6508 152nd
6 Avenue Southeast, Bellevue, Washington. I'm the
7 company president.

8 JUDGE CLARK: For Commission staff?

9 MS. CAMERON-RULKOWSKI: Jennifer
10 Cameron-Rulkowski, assistant attorney general. The
11 address is 1400 South Evergreen Park Drive Southwest,
12 Olympia, Washington, 98504. Telephone is (360)
13 664-1186. Fax is (360) 586-5522, and e-mail is
14 jcameron@wutc.wa.gov.

15 JUDGE CLARK: The next thing we are going to
16 do is swear in anyone who will be presenting an oral
17 statement this afternoon. If you going to present a
18 statement, if you will raise your right hand, please?

19

20 Whereupon,

21 SHERI HOYT, MATTHEW DIJULIO,
22 having been first duly sworn, was called as a witness
23 herein and was examined and testified as follows:

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25 JUDGE CLARK: Mr. DiJulio, what would you

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1 like to tell the Commission about the penalty
2 assessment?

3 MR. DIJULIO: I thought I made the proper
4 payment on April 19th, '06, so I thought we were in
5 compliance. I sent a check. You guys cashed it. I
6 thought I had done what I was supposed to do. Here's a
7 copy of the canceled check. If that's noncompliance,
8 then I need to know what I did wrong.

9 JUDGE CLARK: Did you get a copy of the
10 penalty assessment from the Commission? That would be
11 a document that is dated, I believe it's July 5th.

12 MR. DIJULIO: I do not have that with me, I
13 do not believe.

14 JUDGE CLARK: What I have is a copy of a
15 document that indicates that the violation is for
16 failure to file an annual report.

17 MR. DIJULIO: We sent the annual report with
18 the check and payment.

19 JUDGE CLARK: So the annual report came in at
20 the same time you made the payment in April?

21 MR. DIJULIO: Correct.

22 JUDGE CLARK: Did you send that certified
23 mail, return receipt requested?

24 MR. DIJULIO: I don't believe so. I have a
25 copy of that report.

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1 JUDGE CLARK: Attached to your request for
2 penalty assessment, there is a copy of the check that
3 was dated April 19th, '06. I don't have a copy of the
4 annual report that says, "The attached report copied
5 filed with our check," and so do you have an
6 additional?

7 MR. DIJULIO: I just have a copy of what I
8 believe we sent in with our annual report. That's the
9 report we are required to turn in.

10 JUDGE CLARK: Do you have anything further
11 you would like to add?

12 MR. DIJULIO: No.

13 JUDGE CLARK: Ms. Cameron-Rulkowski, do you
14 have any questions you would like to ask?

15 MS. CAMERON-RULKOWSKI: I do, Your Honor.
16 May I see a copy of the annual report?

17 MR. DIJULIO: (Witness complies.)

18 MS. CAMERON-RULKOWSKI: Do you have a copy of
19 Page 2?

20 MR. DIJULIO: I don't have, no.

21 MS. CAMERON-RULKOWSKI: Thank you. Your
22 Honor, Page 2 is the certification page that includes
23 the signature and the date that the annual report was
24 signed, and we have some information about that in the
25 exhibits, and perhaps we will enter the exhibits at

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1 this time if that's acceptable to you.

2 JUDGE CLARK: It might be better to enter the
3 exhibits through the witness so that she can explain
4 what these exhibits are.

5 MS. CAMERON-RULKOWSKI: Shall we proceed with
6 our statement?

7 JUDGE CLARK: Yes. If you don't have any
8 other questions, that's fine.

9 MR. DIJULIO: That's fine with me.

10 JUDGE CLARK: You may make your statement
11 now.

12 MS. CAMERON-RULKOWSKI: A few preliminary
13 matters, and I wanted to first be certain that
14 documents in the docket are part of the record, and
15 specifically, those are the pleadings and penalty
16 assessment. Do you consider them to be part of the
17 record?

18 JUDGE CLARK: Yes. What I have in the record
19 thus far is the initial penalty assessment issued by
20 the Commission. I have the response that is filed by
21 Mr. DiJulio on behalf of Western Van Lines -- I guess
22 it's filed on behalf of someone else -- with a copy of
23 the check and requesting a hearing. I have the
24 Commission staff response with the attachments and
25 declarations to the request for hearing, and I also

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1 have the notice of brief adjudication setting the time
2 and place for oral statements.

3 MS. CAMERON-RULKOWSKI: Thank you, Your
4 Honor. I will go ahead and I will ask Ms. Hoyt some
5 questions, and the reason for that is that in the
6 hearing request, Western Van Lines did challenge the
7 violation, and then following my examination of
8 Ms. Hoyt, I will proceed with the oral statement on
9 behalf of Staff.

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DIRECT EXAMINATION

13 BY MS. CAMERON-RULKOWSKI:

14 Q. Good afternoon. Would you please state your
15 name and spell your last name?

16 A. Sheri Hoyt, H-o-y-t.

17 Q. Who is your employer?

18 A. Washington Utilities and Transportation
19 Commission.

20 Q. What is your position with the Commission?

21 A. I'm a compliance specialist in the business
22 practices investigation section.

23 Q. Would you please describe your duties as they
24 relate to this case?

25 A. As a compliance specialist, I conduct

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1 investigations regarding the business practices of
2 regulated utility and transportation companies. As
3 part of those duties, I investigate whether the
4 regulated companies are in compliance with the annual
5 report and regulatory fee requirements contained in
6 Commission statutes and rules.

7 Q. And what law or rule do you understand to be
8 at issue in this case?

9 A. RCW 80.04.080, which requires every public
10 service company to annually furnish a report to the
11 Commission, and WAC 480-15-480, which requires
12 household goods companies specifically to file their
13 annual reports and pay regulatory fees by May 1 of each
14 year.

15 Q. I believe the law at issue would be Title 81;
16 is that correct?

17 A. Yes; pardon me.

18 Q. Are you familiar with Western Van Lines, Inc.

19 A. Yes.

20 Q. Please describe how you are familiar with
21 Western Van Lines.

22 A. Every year, business practices investigates
23 whether regulated companies have filed annual reports
24 and paid the regulatory fees by May 1. To ascertain
25 compliance, I check the Annual Report Tracking System,

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1 or ARTS, and I did that with Western Van Lines.

2 Q. Would you please now refer to Exhibit No. 1,
3 and that is the top page of the exhibit packet. Is
4 this is a true and accurate copy of the current ARTS
5 record for Western Van Lines?

6 A. It is.

7 Q. According to this record, did Western Van
8 Lines file an annual report for its 2005 operations?

9 A. Yes, but it is incomplete.

10 Q. Did Western Van Lines file the incomplete
11 annual report by May 1st of 2006?

12 A. No.

13 Q. When did the Commission receive the annual
14 report according to the ARTS record?

15 A. It's reported to be received on July 10th,
16 2006, and I believe it was received with the request
17 for hearing.

18 Q. Has the Company filed a completed annual
19 report?

20 A. No.

21 Q. Has the Commission informed Western Van Lines
22 that the annual report on file is incomplete?

23 A. Yes, by a letter dated July 24, 2006, sent to
24 Mr. DiJulio.

25 Q. Would you please refer now to Exhibit No. 2.

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1 Is this a true and accurate copy of the letter that
2 Staff sent on July 24th, 2006, to Western Van Lines
3 regarding the annual report?

4 A. It is.

5 Q. And to your knowledge, has the Commission
6 received a response from the Company?

7 A. No.

8 Q. Could you explain what is missing from the
9 annual report?

10 A. Pages 2 and 4 were eliminated from the copy
11 received by the Commission.

12 Q. In its request for hearing, Western Van Lines
13 seems to claim that it timely filed its annual report
14 along with the regulatory fee, and therefore, that it
15 did not violate the annual report filing rule. For the
16 next questions, you may want to refer back to
17 Exhibit 1. Did the Company file its regulatory fee?

18 A. Yes.

19 Q. Was that filed by check?

20 A. I understand it was filed by check, and we
21 received that money on April 27th before the May 1
22 deadline.

23 Q. Was the annual report filed with the check?

24 A. No.

25 Q. How did you reach that conclusion?

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1 A. In the ARTS database and Western Van Lines
2 file on 4/27, 2006, there is a notation made by Staff
3 who received the check that says, "No annual report
4 received with payment."

5 MS. CAMERON-RULKOWSKI: Thank you, Ms. Hoyt.
6 I would like to move for the admission of Exhibits 1
7 and 2.

8 JUDGE CLARK: Mr. DiJulio, do you have any
9 objection to the Commission considering these two
10 documents in considering a final decision?

11 MR. DIJULIO: That's fine.

12 JUDGE CLARK: Exhibits 1 and 2 are received.

13 MS. CAMERON-RULKOWSKI: That concludes my
14 examination of Ms. Hoyt, and I will now proceed with
15 the oral statement.

16 State law per RCW 81.04.080 requires public
17 service companies to file annual reports with the
18 Commission. WAC 480-15-480 specifies that household
19 goods carriers must file annual reports by May 1 of
20 each year. Under RCW 81.04.405, a public service
21 company that violates RCW Title 81 or any rule of the
22 Commission shall incur a penalty of \$100.

23 Ms. Hoyt investigated Commission records and
24 found that Western Van Lines did not file its annual
25 report until July 10, more than two months after the

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1 filing deadline. The Company submitted a check to the
2 Commission as payment for the regulatory fee in April
3 of 2006. Although the Company seems to claim that it
4 filed the annual report at the same time as the check,
5 Commission records do not reflect receipt of the annual
6 report until July of 2006 when Western Van Lines filed
7 its request for hearing.

8 Also, the annual report is missing two pages,
9 and Western Van Lines has not responded to Staff's
10 request to complete the annual report. Western Van
11 Lines violated WAC 480-15-480 by failing to file its
12 annual report by May 1st. In addition, by failing to
13 file a complete report, the Company has violated RCW
14 81.04.080. The penalty is appropriate. Thank you.
15 That concludes Staff's statement.

16 JUDGE CLARK: Thank you. Mr. DiJulio, since
17 you are the individual who requested the hearing in
18 this proceeding and you are the individual against whom
19 the penalty is assessed, would you like to add anything
20 at this time?

21 MR. DIJULIO: I don't wish to add anything
22 further.

23 JUDGE CLARK: Do you have any questions?

24 MR. DIJULIO: No. I would just like a copy
25 of that letter.

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1 JUDGE CLARK: You are referring to the July
2 24th letter?

3 MR. DIJULIO: Yes.

4 JUDGE CLARK: What will happen is the
5 Commission will take under consideration all of the
6 information that was filed in this proceeding, and that
7 includes the documents that I cited at the beginning as
8 well as the oral statements that are made by both sides
9 in this proceeding and the two exhibits that were
10 received, and we will issue a written decision. Thank
11 you for your time.

12 MR. DIJULIO: Thank you.

13 JUDGE CLARK: We are adjourned.

14 (Brief adjudication adjourned at 1:50 p.m.)

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