

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

Complainant,

v.

JORGE HUMBERTO LUNA-LOPEZ d/b/a
UR MOVING SOLUTIONS

Respondent.

DOCKET TV-091621

COMMISSION STAFF'S
RESPONSE TO UR MOVING
SOLUTIONS' APPLICATION FOR
MITIGATION

¹ Pursuant to WAC 480-07-370(1)(c), Staff of the Washington Utilities and Transportation Commission (Staff) submits this response to Jorge Humberto Luna-Lopez d/b/a UR Moving Solutions' (UR Moving or Company) Application for Mitigation.¹

I. BACKGROUND

² On October 16, 2009, the Washington Utilities and Transportation Commission (Commission) assessed a penalty (Penalty Assessment) in the amount of \$3,100 against UR Moving for violations of WAC 480-15-610(1), which requires that household goods carriers include the Commission-issued permit number, the name or trade name as recorded by the Commission, and the business address and business telephone number in any advertising for household goods moving services, and WAC 480-15-610(4), which requires that carriers

¹Please note that this response does not come from the Commission but from Commission Staff. Commission Staff is a party in this case and is separate from the Commission. The Commission will be the ultimate decision maker in this matter. An Administrative Law Judge will consider the Company's statements and Commission Staff's statements and will issue a decision. The Commission may accept, modify, or reject that decision.

may not advertise services or rates and charges that conflict with Tariff 15-C.² The violations were identified in 14 Company advertisements posted on Craigslist between September 28, 2009 and October 5, 2009, and one advertisement posted on www.backpage.com on September 24, 2009.³ There were four areas of noncompliance with WAC 480-15-610: (1) eleven advertisements did not include the Company name; (2) Fifteen advertisements did not include a business address; (3) one advertisement did not include the Commission-issued permit number, and (4) five advertisements stated that the Company had no minimum hours, in conflict with Tariff 15-C, Item 230, which requires certain minimum hours be charged.⁴

3 On October 26, 2009, UR Moving filed an Application for Mitigation of Penalties (Mitigation Request), waiving a hearing and asking for an administrative decision on the information it presented. For the reasons given below, and as set forth in the Declaration of Sheri Hoyt attached to this Response. Staff supports substantial mitigation of the penalty, to \$400, or \$100 for each type of WAC 480-15-610 violation found.⁵

II. ARGUMENT

7 In its Mitigation Request, UR Moving argues that, when it received the penalty assessment along with copies of the noncompliant advertisements, correcting the violations was a top priority, and it has since updated and edited its ads to conform to Commission rules, and it would do its utmost to comply with Commission rules. UR Moving enclosed

²The Penalty Assessment detailed 32 violations of WAC 480-15-610, as identified in Staff's investigation. However, due to a miscalculation of the total violations in Staff's investigation report, discovered while preparing this Response, only 31 violations were in fact penalized. *See attached* Declaration of Sheri Hoyt, FN 1.

³*See* Penalty Assessment, and Staff's investigation report attached to the Declaration of Sheri Hoyt as Appendix A. Copies of the advertisements are contained within the investigation report under the label "Attachment B."

⁴ *See* Penalty Assessment, Declaration of Hoyt at ¶¶10-11, and Appendix A. .

⁵ *See* Declaration of Hoyt, ¶13.

copies of updated ads. UR Moving stated that its ads were not intended to defraud, mislead, or misrepresent its services to the public, and that it is a “legitimate, hard working, fairly new, small independently owned and operated business.” It asked the Commission to forgive its errors and to review its corrections.⁶

8 Staff supports substantial mitigation of the penalty. UR Moving has demonstrated through its actions that its correction of violations and future compliance was, and is, a top priority. The Company does not dispute that the violations occurred. Rather, the day after it received the penalty assessment, on October 21, 2009, the Company’s owner, Mr. Jorge Luna-Lopez, came to the Commission to meet with Staff. At that meeting, he indicated that UR Moving’s Craigslist advertisements had been corrected and its backpage.com advertisement had been deleted entirely.⁷ Staff has reviewed the copies of Craigslist advertisements attached to the Company’s Mitigation Request, and found that all violations have been corrected.⁸ In addition, Staff reviewed UR Moving advertisements posted to Craigslist from November 2-5, 2009, and found that the Company no longer has a minimum hour designation posted, and that the Company’s name, business address, and permit number are all present, in compliance with WAC 480-15-610.

9 In addition, at the October 21, 2009, meeting, Staff and Mr. Luna-Lopez discussed household goods rules and tariff requirements at length, with Staff providing technical assistance.⁹ Staff provided examples and scenarios to illustrate the rules at issue, and believes that it appears the Company’s owner now has a clear understanding of tariff requirements and what Company advertisements must contain. Although the Company had

⁶ See Request for Mitigation of Jorge Humberto Luna-Lopez d/b/a UR Moving Solutions, October 26, 2009, in docket TV-091621.

⁷ Declaration of Hoyt, ¶7.

⁸ *Id.*, ¶8.

⁹ *Id.*, ¶9-11.

previously attended training sessions and received a written compliance letter, it does not appear that this assistance was willfully ignored; rather, Staff came to realize during this meeting that the Company strove to understand the rules applicable to it, and, for this carrier, technical assistance in the form of examples and scenarios was more effective.¹⁰

10 A penalty assessment is a tool to enforce future compliance. Because the violations appear to be inadvertent and not intended to defraud, mislead, or misrepresent UR Moving's services to the public, because UR Moving took immediate proactive steps to correct the violations identified in the penalty assessment, and because UR Moving has since availed itself of individualized technical assistance which appears to have resulted in immediate compliance, Staff recommends substantial, but not complete, mitigation of the penalty.

11 As explained above, the 32 violations identified in 15 Company advertisements detailed in the penalty assessment fall into four areas of noncompliance with WAC 480-15-610. Accordingly, Staff respectfully recommends that UR Moving pay a \$100 penalty for each element of non compliance with WAC 480-15-610, for a total of \$400, as follows: (1) \$100 for failure to include company name on advertisements; (2) \$100 for failure to include its business address on advertisements; (3) \$100 for failure to include its Commission-issued permit number on advertisements; and (4) \$100 for misrepresentation on minimum hours to be charged, in conflict with Tariff 15-C.¹¹ In the alternative, if the Commission does not accept Staff's recommendation to mitigate the penalty, Staff is not opposed to allowance of a payment plan whereby UR Moving could make equal monthly payments of the penalty for a period of one year.¹²

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¹⁰ *Id.*, ¶9 and ¶12.

¹¹ *Id.*, ¶13.

¹² *Id.*, ¶14.

DATED this ____ day of _____ 2009.

Respectfully submitted,

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