



STATE OF WASHINGTON
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250
(360) 664-1160 • TTY (360) 586-8203

September 28, 2012

David W. Danner, Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Dr. SW
P. O. Box 47250
Olympia, Washington 98504-7250

RE: *Washington Utilities and Transportation Commission v. Always Able Moving Service, LLC.*
Commission Staff's Response to Application for Mitigation of Penalties
Docket TV-120910

Dear Mr. Danner:

On July 23, 2012, the Washington Utilities and Transportation Commission issued a \$2,100 Penalty Assessment in Docket TV-120910 against Always Able Moving Service, LLC for 21 violations of Washington Administrative Code (WAC) 480-15-480, which requires permitted household goods carriers to furnish annual reports to the commission no later than May 1 each year.

On August 10, 2012¹, Always Able Moving Service, LLC responded to the commission, requesting a hearing. In its Hearing Request, Always Able Moving Service, LLC did not provide a written statement of the reasons the company believed the alleged violation did not occur. The commission denied the request for a hearing and required Always Able Moving Service, LLC to file a written statement of the reason(s) in support of its request by 5:00 p.m., Thursday, August 23, 2012.

On August 22, 2012, Always Able Moving Service, LLC filed its response², which included a written statement of the reason(s) supporting its request. In its response, Always Able Moving Service, LLC, disputes that the violation occurred. The company states, "On July 23rd 2012, I received both an email and a certified letter stating that I failed to file an annual report by May 1, 2012. This was the first notice I received by any means that I needed to fill out any type of report or was late filling out a report. I did NOT receive any paperwork of any type from your agency prior to the July 23rd date. I currently reside in an apartment with my family. We have one small lock box where we receive our mail. If any mail comes to our address that does not fit in the small keyed box, it is usually held at our apartment complex front office. Your letter states that Annual Report forms and Fee packets were mailed to me on February 29th of this year. There is no way all this information would have fit in our small box; and according to our manager's office, they never received any such packet. I am not sure where this information was actually

¹ See attachment A for a copy of Always Able Moving Service, LLC Mitigation Request.

² See attachment B for a copy of Always Able Moving Service, LLC written statement received August 22, 2012.



sent to; or ended up. Your letter indicates that you started accessing fees of 100 dollars a day after the May 1, deadline.”

In its response, Always Able Moving Service, LLC asks the following questions:

1. “Why did I not receive a certified letter right away?”
2. “Why did you not send me an email notifying me of this fee being assessed?”
3. “I do not understand? You obviously had a correct address and email for me, because I received both the certified letter and email on July 23rd, after you applied 2,100.00 worth of fees.”
4. “You stated there is a WAC code which requires me to file an annual report with the Commission and I am fine with complying with that code, if I had known it was time to do so. Is there no code which YOU have to be able to show that I actually received the report?”
5. “Why are the original report forms and fee packets not sent certified mail to ensure that I receive them?”
6. “Why did I not receive an email from you stating that the forms were on their way, so I could have been on the lookout for them [sic].”

It is the company’s responsibility to ensure that the regulatory fee and the annual report are filed by the May 1 deadline. On February 29, 2012³, Annual Report forms and Regulatory Fee packets were mailed to all regulated household goods carriers. In addition to other information, the cover letter informed the regulated company it must complete the annual report form, pay any regulatory fees and return the material by May 1, 2012 to avoid enforcement action. On May 15, 2012⁴, the commission mailed a letter to those companies that had not yet filed an annual report notifying them that, to date, they had incurred a penalty of \$900. The letter went on to explain that companies who filed their annual reports no later than May 25, 2012, would receive mitigated penalties of \$25 per day, with an additional \$25 per day for each instance in the previous five years that the company received a penalty for filing a late report.

In response to Always Able Moving Service, LLC’s questions above:

The commission mails annual report forms and instructions to each household goods permit holder at its address of record. If a carrier does not receive an annual report form, it is the carrier’s responsibility to contact the commission and request the form. This information can be found under WAC 480-15-480(1)(b).

Always Able Moving Service, LLC did not file its annual report by May 31, 2012, which is 21 business days past the deadline of May 1, 2012. The penalty is \$100 per day for a total of \$2,100. Always Able Moving Service, LLC was granted its provisional household goods license on July 13, 2011, and therefore has not previously received a penalty for filing a delinquent annual report.

Despite the circumstances, staff supports mitigating the assessed penalty from \$2,100 to \$1,050, which represents a 50 percent reduction because this is Always Able Moving Service, LLC’s first late filing.

³ See attachment C for a copy of the letter sent to all regulated companies on February 29, 2012.

⁴ See attachment D for a copy of the enforcement letter sent to the company on May 15, 2012.

If you have questions regarding this recommendation, please contact Mathew Perkinson, Compliance Investigator, at (360) 664-1105, or at mperkinson@utc.wa.gov.

Sincerely,

A handwritten signature in cursive script that reads "SWallace".

Sharon Wallace, Assistant Director
Consumer Protection and Communications

Attachment A

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TV-120910

PLEASE NOTE: You must complete and sign this document, and send it to the Commission within 15 days after you receive the penalty assessment. Use additional paper if needed.

I have read and understand RCW 9A.72.020 (printed below), which states that making false statements under oath is a class B felony. I am over the age of 18, am competent to testify to the matters set forth below and I have personal knowledge of those matters. I hereby make, under oath, the following statements.

1. Payment of penalty. I admit that the violations occurred. I have:

Enclosed \$2,100 in payment of the penalty

Submitted my payment of \$2,100 online at www.utc.wa.gov. My confirmation number is _____.

2. Request for a hearing. I believe that one or more of the alleged violations did not occur, based on the following information, and request a hearing, which is a process that allows an affected person to present argument to an administrative law judge for a decision by an administrative law judge:

3. Application for mitigation. I admit the violations, but I believe that the penalty should be reduced for the reason(s) set out below.

a) I ask for a hearing for a decision by an administrative law judge based on the information presented above.

OR b) I waive a hearing and ask for an administrative decision on the information I present directly above.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing, including information I have presented on any attachments, is true and correct.

Dated: July 23, 2012 [month/day/year], at Milton, Washington [city, state]

ALWAYS MOVE MOVING SERVICE, LLC
Name of Respondent (company) - please print

Dana Parker Jr.
Signature of Applicant

RCW 9A.72.020:

"Perjury in the first degree. (1) A person is guilty of perjury in the first degree if in any official proceeding he makes a materially false statement which he knows to be false under an oath required or authorized by law. (2) Knowledge of the materiality of the statement is not an element of this crime, and the actor's mistaken belief that his statement was not material is not a defense to a prosecution under this section. (3) Perjury in the first degree is a class B felony."

2012 AUG 10 PM 2:10
RECEIVED
COMMUNICATIONS
MANAGEMENT

Attachment B

August 19, 2012

To: The Washington Utilities and Transportation Commission, Penalty Assessment Department

Attn: Gregory J. Kopla

RE: Always Able Moving Service, LLC, Assessment, Docket TV-120910

Response to being denied a request for hearing and Application for Mitigation

On July 23rd 2012, I received both an email and a certified letter stating that I failed to file an annual report by May 1, 2012.

This was the first notice I received by any means that I needed to fill out any type of report or was late filling out a report.

I did NOT receive any paperwork of any type from your agency prior to the July 23rd date.

I currently reside in an apartment with my family. We have one small lock box where we receive our mail. If any mail comes to our address that does not fit in the small keyed box, it is usually held at our apartment complex front office.

Your letter states that Annual Report forms and Fee packets were mailed to me on February 29th of this year. There is no way all this information would have fit in our small box; and according to our manager's office, they never received any such packet. I am not sure where this information was actually sent to; or ended up.

Your letter indicates that you started assessing fees of 100 dollars a day after the May 1, deadline. Why did I not receive a certified letter right away? Why did you not send me an email notifying me of this fee being assessed?

I do not understand? You obviously had a correct address and email for me, because I received both the certified letter and email on July 23rd, after you applied 2,100.00 worth of fees.

You stated there is a WAC code which requires me to file an annual report with the Commission and I am fine with complying with that code, if I had known it was time to do so. Is there no code which YOU have to be able to show that I actually received the report?

Why are the original report forms and fee packets not sent certified mail to ensure that I receive them? Why did I not receive an email from you stating that the forms were on their way, so I could have been on the lookout for them.

I realize as being a small company owner that I must know and be expected to follow the laws and WAC's for Washington State. I did attend a 8 hour class when I first started my moving company business, but they cover so much in such a short period of time; if they covered a section about filing this report and time frames in which to file it: I do not recall it.

I am a small moving company owner, who was forced to make a living this way when the economy fell and I was let go from my construction job. It is all I can do to put food on the table and I do NOT have 2,100.00, not even close.

I realized from looking at the paperwork you sent me denying my request for a motion that I was to send a letter stating the facts of why I should be given a motion. I'm sorry I did not do that. I was in such a hurry to get the form back to you, I did not read the whole letter. That is clearly an oversight on my part.

RECEIVED
REGISTRY MANAGER
2012 AUG 22 AM 8:21
STATE OF WA
UTILITY AND TRANSPORTATION
COMMISSION

But, not submitting the reports to you by May 1, 2012, that I was required to do; I do not believe is a fault of mine, since (I'm sorry to keep repeating myself) but I did not receive any paperwork from you at all until the July 23rd certified letter stating I was in violation and was now required to pay 2,100.00.

Thank you for your time and I hope you will reconsider assessing these fees to me.

I will wait to hear from you on what to do next.

Regards,



Dana Parker

Attachment C



STATE OF WASHINGTON

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250
(360) 664-1160 • TTY (360) 586-8203

February 29, 2012

Dear Regulated Company:

Reference: Your 2011 Annual Report and 2012 Regulatory Fees are due May 1

State law requires you to file an annual report and pay regulatory fees to the Washington Utilities and Transportation Commission (UTC).

What is required of you?

By May 1, you must:

- Complete and file one paper copy or electronic version of the enclosed 2011 annual report form
- Pay your 2012 regulatory fees

What happens if you do not file a completed annual report and pay regulatory fees on time?

If you do not file your company's completed annual report and pay the regulatory fees by May 1, the UTC will assess a financial penalty of \$100 for each business day after May 1 that the report is not filed and \$100 for each business day after May 1 the fees are unpaid. You may seek mitigation of the penalties in response to the assessment you receive, after you have filed a completed annual report and paid your regulatory fees. The amount of the penalties the UTC mitigates, if any, will depend on the reasons you were late and whether you have filed late in prior years. If you have not filed your completed annual report or paid your regulatory fees by June 1, 2012, Staff will initiate proceedings to have the UTC revoke your authority to operate in Washington.

What happens if you do not pay the regulatory fees by May 1?

If you do not pay your company's regulatory fees by May 1, you will incur a 2 percent penalty on the amount due and a 1 percent monthly interest charge on the unpaid balance. These amounts apply in addition to the assessment of a penalty of \$100 per business day after May 1 that the fees are unpaid.

May you request an extension of time if you are unable to file the annual report or pay your regulatory fees on time?

You may file a written request for an extension to file your completed annual report, but the UTC will not extend the deadline for paying regulatory fees. Any extension request must be filed with the UTC by April 24, 2012, and must state a valid reason for why you need an extension and identify a specific date by which you will file your completed annual report. The UTC will notify you by May 1 whether your request is approved or denied. Even if your request

UTC Annual Reports and Fees
February 29, 2012
Page 2

is approved, you will still be liable for penalties and interest payments if you fail to pay your regulatory fees by May 1.

What should you do if your company is no longer operating in Washington?

You may cancel your registration or permit by using the cancellation forms available on our website (see below), but if your company operated in Washington at any time during the 2011 calendar year, you must pay regulatory fees and file a closing annual report based on the months of operation during 2011 even if you cancel your registration or permit.

May you designate any information in your annual report as confidential?

Yes, but if you satisfy two conditions:

- (1) You are eligible to request confidential treatment only if your company is regulated under Title 80 RCW, that is, if you operate an electric, natural gas, telecommunications or water company. Transportation companies, regulated under Title 81 RCW, may not request confidential treatment of documents because the authority for such treatment is found only in RCW 80.04.095. If a Title 81 company files its annual report or fee sheet as confidential, the UTC will not treat it as confidential.
- (2) You must follow the steps for filing confidential documents in WAC 480-07-160. You may find this rule at the UTC website, www.utc.wa.gov/annual-reports.

Please note: The regulatory fee sheet portion of your report is not a confidential document and will not be accorded confidential treatment under the rule. The UTC will not, however, disclose credit card information you list on the fee sheet.

May you perform some of these tasks online?

Yes. You may complete the following tasks from the annual reports page at the UTC website www.utc.wa.gov/annualreports:

- Obtain electronic versions of annual report forms
- Pay regulatory fees
- File your report electronically
- Cancel your registration (telecommunications companies) or permit (transportation companies) if your company ceased operations in 2011.

Where do you mail the completed annual report form and regulatory fee payment?

Washington Utilities and Transportation Commission
PO Box 47250
Olympia, WA 98504-7250

Is there any additional information you should file?

- If you are a gas distribution company, please also file both a paper and electronic copy of your Federal Energy Regulatory Commission Form 2.



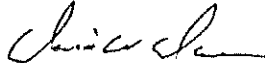
UTC Annual Reports and Fees
February 29, 2012
Page 3

- If you are an electric company, please also file both a paper and electronic copy of your Federal Energy Regulatory Commission Form 1.
- If you are a class 1 Railroad, please also file a copy of your Surface Transportation Board Form R-1 - including statistics specific to the state of Washington.

If you have questions about any aspect of your report or regulatory fee, please contact Rae Lynn Carnes at (360) 664-1152 or rcarnes@utc.wa.gov.

If you need this letter or an annual report form in an alternate format, please call 360-664-1243. The TTY Toll-Free phone number is 1-800-416-5289.

Sincerely,



David W. Danner
Executive Director and Secretary

Enclosures

Attachment D



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1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250
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May 15, 2012

NOTICE OF ENFORCMENT ACTION

Attention:

Your 2011 annual report to the Utilities and Transportation Commission (commission) was due on May 1, as required by law. Financial penalties of \$100 per day began accruing on May 2. As of the date of this letter, you have accrued a penalty of \$900. That penalty will increase by \$100 per day for each subsequent day you fail to comply.

This letter tells you what you can do to mitigate your penalty.

If the commission receives your report postmarked no later than May 25, commission staff will mitigate your penalty to \$25 per day. Additional penalties of \$25 per day will be added for each year you have filed late in the past five years, up to a maximum of \$100 per day.

Annual report forms are available on the commission's website at www.utc.wa.gov. If you have questions or require additional information, please contact Mathew Perkinson, Compliance Investigator, at (360) 664-1105 or mperkinson@utc.wa.gov.

Sincerely,

A handwritten signature in cursive script, appearing to read "David W. Danner".

David W. Danner
Executive Director and Secretary

