

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment	)	DOCKET TV-150917
Against	)	
	)	ORDER 01
MORGAN TRANSFER, INC. and	)	
WESTERN TRANSFER OF	)	ORDER DENYING REQUEST FOR
WASHINGTON, LLC	)	HEARING; GRANTING
	)	MITIGATION TO \$250
in the amount of \$1,000	)	
.....	)	

**BACKGROUND**

- 1 Washington law requires household goods carriers to file annual reports and pay regulatory fees by May 1 of each year. WAC 480-15-480. On February 27, 2015, the Washington Utilities and Transportation Commission (Commission) mailed annual report and regulatory fee packets to all household goods carriers. The forms included a reminder that companies must file their annual reports and pay their regulatory fees by May 1, 2015, or face penalties of \$100 for each violation of Commission rules. In the case of continuing violations, each day’s continuance is a separate violation. RCW 80.04.405.
- 2 Neither Morgan Transfer, Inc. (Morgan Transfer) nor Western Transfer of Washington, LLC (Western Transfer) filed an annual report on May 1, 2015, and neither company had made that filing by May 15. On May 29, the Commission assessed a penalty of \$1,000 against Morgan Transfer and Western Transfer, calculated as \$100 per business day from May 1 to May 15.
- 3 On June 6, 2015, Morgan Transfer filed its annual report and paid its regulatory fee.
- 4 On June 9, 2015, both Morgan Transfer and Western Transfer responded to the Commission’s penalty assessment. Morgan Transfer requested mitigation based solely on the written information provided, and Western Transfer contested the violations and requested a hearing. Both companies provided the following, identical response, signed by Mike Michael:

“Effective 12:00 a.m. January 1, 2015, all assets were sold and transferred from Morgan Transfer, Inc. to Western Transfer of Washington, LLC ...  
Mike Michael is the 100 % stockholder in Morgan Transfer, Inc. ... and

Jacob Alden is the 100% stockholder in ... Western Transfer of Washington, LLC ... At the time and date of transfer, Morgan Transfer, Inc. ... ceased doing business. Prior to the date and time of closing ... Western Transfer of Washington, LLC [had not] engaged in any business. As Morgan Transfer [was] no longer in business, I was not aware that the annual report was to be filed.”

- 5 On June 25, 2015, Commission Staff (Staff) filed a response recommending the Commission waive the penalty. Staff notes that Morgan Transfer received a penalty for a late-filed annual report in 2014, but trusts Mr. Michael’s belief was sincere that no filing was due because the company’s ownership was transferred.

### **DISCUSSION**

- 6 WAC 480-15-480 requires permitted household goods carriers to file annual reports and pay regulatory fees by May 1 of each year. Companies are responsible for complying with their legal obligations, which includes filing an annual report for any portion of the preceding year in which they operated.
- 7 As a preliminary matter, we deny Western Transfer’s request for a hearing. The Commission’s penalty assessment advised the Company that a request for hearing will only be granted if material issues of law or fact require consideration of evidence and resolution in hearing. Here, no issues of law or fact are in dispute. The companies’ responses clarify each company’s role; because Western Transfer did not operate in 2014, it was not required to file an annual report. The facts, therefore, are undisputed, and the law is clear: Morgan Transfer is the party responsible for the late-filed annual report.
- 8 Accordingly, we turn to Morgan Transfer’s application for mitigation. Every permit holder is required to file an annual report and pay regulatory fees by May 1 of each year for any portion of the previous year in which it operated; the fact that Morgan Transfer mistakenly believed it was not required to do so is irrelevant.
- 9 Nevertheless, we will assess a reduced penalty. The Commission may consider a number of factors when entertaining a request for mitigation, including a company’s history of compliance, whether the violation was promptly corrected, and the likelihood the violation will recur.<sup>1</sup> Morgan Transfer received and paid a reduced penalty of \$25 for a late-filed annual report in 2014. Although Morgan Transfer has since filed its annual

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<sup>1</sup> Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission (January 7, 2013).

report and paid its regulatory and late payment fees, the violations are likely to recur absent an escalated penalty because Mr. Michael continues to play an active role in Western Transfer's operations. According to Western Transfer's application for transfer, which was filed with the Commission on January 29, 2015, "the seller, Mike Michael, and his entire staff [are] staying on board. Mike will train us for at least six months and will stay on beyond that for additional guidance." In light of these circumstances, we are not willing to waive the penalty in its entirety. We will, however, exercise our discretion to assess a reduced penalty of \$25 per day, or \$250.

**ORDER**

THE COMMISSION ORDERS:

- 10 (1) Western Transfer of Washington, LLC's request for a hearing is DENIED.
- 11 (2) Morgan Transfer, Inc.'s request for mitigation is GRANTED, in part, and the penalty is reduced to \$250.
- 12 (4) The \$250 penalty is due and payable no later than July 10, 2015.
- 13 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 June 30, 2015.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

STEVEN V. KING  
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.**