

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET TV-170243
IBRAHIM A. SUSEYI d/b/a THE SUSEYI PRO MOVING COMPANY	ORDER 01
in the amount of \$14,000	ORDER GRANTING MITIGATION TO \$7,000

BACKGROUND

- 1 On April 19, 2017, the Washington Utilities and Transportation Commission (Commission) assessed a \$14,000 penalty (Penalty Assessment) against Ibrahim A. Suseyi d/b/a The Suseyi Pro Moving Company (Pro Moving or Company) for 140 critical violations of Washington Administrative Code (WAC) 480-15-570, which adopts by reference Title 49 Code of Federal Regulations (C.F.R.) Part 391 related to driver qualifications.¹
- 2 On May 5, 2017, Pro Moving responded to the Penalty Assessment, admitting the violations and requesting mitigation of the penalty based on the written information provided. In its response, the Company acknowledged the violations and explained that they were immediately corrected. The Company further explained that the penalty would create a severe financial hardship.
- 3 On May 31, 2017, Commission staff (Staff) filed a response recommending the Commission grant the Company's request for mitigation, in part. Staff recommends the Commission assess a reduced penalty of \$7,000 for the 140 violations of 49 C.F.R. Part 391.45(a) cited in the Penalty Assessment because these are first-time violations and the Company represents that it took prompt corrective action. Staff conditions its recommendation on the Company providing proof that employees Altyn Stevens III, Jack Le, Alexander Ohannes, Michael Rogers, and Kelly Merritt have obtained valid medical certificates within 14 days of the date of this Order.

¹ WAC 480-30-221 adopts by reference sections of Title 49 C.F.R. Accordingly, Commission safety regulations with parallel federal rules are hereinafter referenced only by the applicable provision of 49 C.F.R.

DISCUSSION AND DECISION

- 4 Washington law requires household goods carriers to comply with federal safety requirements and undergo routine safety inspections. Violations discovered during safety inspections are subject to penalties of \$100 per violation.² In some cases, Commission requirements are so fundamental to safe operations that the Commission will issue penalties for first-time violations.³ Violations defined by federal law as “critical,” which are indicative of a breakdown in a carrier’s management controls, meet this standard.⁴
- 5 The Commission considers several factors when entertaining a request for mitigation, including whether the company introduces new information that may not have been considered in setting the assessed penalty amount, or explains other circumstances that convince the Commission that a lesser penalty will be equally or more effective in ensuring the company’s compliance.⁵
- 6 The Penalty Assessment includes a \$14,000 penalty for 140 violations of 49 C.F.R. Part 391.45(a) because Pro Moving allowed five drivers who were not medically examined and certified to drive on 140 occasions in the six months preceding the compliance review. In its response, the Company explained that it was unaware of this requirement prior to the compliance review. The Company further explained that it immediately corrected the violations by paying for its employees’ medical examinations.
- 7 Staff recommends the Commission assess a reduced penalty of \$7,000 because these are first-time violations and the Company took prompt corrective action. Staff conditions its recommendation on the Company providing proof that the five employees in question have obtained valid medical certificates. We agree with Staff’s recommendation. In its response, the Company acknowledged the violations and provided assurances of future compliance. In light of these factors, we assess a \$7,000 penalty for 140 violations of 49 C.F.R. Part 391.45(a) subject to Staff’s recommended condition.

² See RCW 81.04.405.

³ Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission ¶12 (Jan. 7, 2013) (Enforcement Policy).

⁴ 49 C.F.R. § 385, Appendix B.

⁵ Enforcement Policy ¶19.

8 To reduce the financial impact of the penalty, the Company may work with Staff to establish mutually agreeable payment arrangements.

FINDINGS AND CONCLUSIONS

- 9 (1) The Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, and practices of public service companies, including household goods carriers, and has jurisdiction over the parties and subject matter of this proceeding.
- 10 (2) Pro Moving is a household goods carrier subject to Commission regulation.
- 11 (3) Pro Moving violated 49 C.F.R. Part 391.45(a) when it allowed five drivers who were not medically examined and certified to drive on 140 occasions during the six months preceding the compliance review.
- 12 (4) Pro Moving should be penalized \$7,000 for 140 violations of 49 C.F.R. Part 391.45(a) subject to the condition that the Company provides Staff with copies of its employees' medical certificates by June 19, 2017.
- 13 (5) Pro Moving should be permitted to file jointly with Staff a mutually agreeable arrangement for paying the \$7,000 penalty.

ORDER

THE COMMISSION ORDERS:

- 14 (1) Ibrahim A. Suseyi d/b/a The Suseyi Pro Moving Company's request for mitigation of the \$14,000 penalty is GRANTED, in part, and the penalty is reduced to \$7,000 subject to the condition that Ibrahim A. Suseyi d/b/a The Suseyi Pro Moving Company provide Commission Staff with copies of valid medical certificates for employees Stevens, Le, Ohannes, Rogers, and Merritt no later than June 19, 2017.
- 15 (2) Ibrahim A. Suseyi d/b/a The Suseyi Pro Moving Company must either pay the \$7,000 penalty or file jointly with Staff a proposed payment arrangement no later than June 19, 2017.

16 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 5, 2017.

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.