

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

JFS TRANSPORT, INC. D/B/A COAST
MOVERS,

Respondent.

DOCKET TV-180315

In the Matter of Determining the Proper
Carrier Classification of, and Complaint for
Penalties Against:

JFS TRANSPORT, INC. D/B/A COAST
MOVERS

DOCKET TV-200861

STAFF'S MOTION TO IMPOSE
SUSPENDED PENALTIES;
MOTION TO CONSOLIDATE
PROCEEDINGS

I. INTRODUCTION

1 In 2018, the Commission's regulatory staff (Staff) complained against JFS Transport, Inc. d/b/a Coast Movers (JFS) in Docket TV-180315, alleging numerous violations of the Commission's rules and the household goods carrier tariff, Tariff 15-C. Specifically, Staff alleged, among other things, that the company had improperly charged customers specific operational expenses in addition to an hourly rate, in violation of WAC 480-15-490 and Tariff 15-C, Item 205, and improperly provided customers with incomplete bills of lading, in violation of WAC 480-15-710 and Tariff 15-C, Item 95.

2 Staff and JFS reached a settlement, which the Commission ultimately adopted in Order 02 in Docket TV-180315 (Order 02). That settlement required JFS to, among other things, refund to customers the improperly charged operational expenses. It also resulted in the imposition of a

\$15,000 penalty on JFS, with \$10,000 of that penalty suspended for a period of two years, and waived thereafter so long as JFS refrained from committing repeat violations.

3 In August 2020, Staff reviewed JFS’s compliance with the terms of the settlement and made two unpleasant discoveries. First, JFS has failed to comply with the settlement’s terms. Staff surveyed a sample of the moves performed by JFS and found numerous cases where the company billed for operational expenses already incorporated into the hourly rate charged or failed to provide complete bills of lading, or both. Second, Staff discovered during its review that JFS was engaging in business as a household goods carrier despite the Commission’s cancellation of its permit in March 2020.

4 As a result of its compliance investigation, Staff has filed this motion seeking the imposition of the portion of the penalty imposed but suspended by Order 02. Staff has also filed, in Docket TV-200861, a complaint seeking a classification order and penalties against and refunds from JFS based on the new violations. Because this motion and the complaint are both based on Staff’s compliance investigation, and because the motion and the complaint share related principles of fact and law, the Commission should consolidate the two matters for hearing.

II. RELIEF REQUESTED

5 Staff respectfully requests that the Commission impose the \$10,000 portion of the penalty imposed but suspended by Order 02.

6 Staff also respectfully requests that the Commission consolidate Dockets TV-180315 and TV-200861.

III. STATEMENT OF FACTS

7 In 2018, Staff complained against JFS for violations of the Commission’s household
goods carrier rules and Tariff 15-C, alleging seven different causes of action.¹ As relevant here,
the first of those concerned JFS charging customers operational expenses as a separate line item
rather than incorporating those costs into its hourly rate as required by WAC 480-15-490 and
Tariff 15-C, Item 205.² The fifth concerned JFS’s failure to properly fill out bills of lading as
required by WAC 480-15-710 and Tariff 15-C, Item 95.³

8 Staff and JFS resolved the complaint informally by reaching a settlement.⁴ Under the
settlement, JFS admitted that it committed the alleged violations and committed to refunding to
customers the improperly billed operational charges.⁵ JFS also accepted the imposition of a
\$15,000 penalty, with \$10,000 of that penalty suspended and then waived after two years if JFS
did not commit repeat violations of the Commission’s rules or orders or Tariff 15-C.⁶ The
Commission approved the settlement without condition, adopting it as its own resolution of
Staff’s complaint.⁷

9 In May 2020, Staff began its review of JFS’s compliance with the terms of the settlement.
Staff obtained records for 24 moves performed by JFS between January 1, 2020, and March 31,
2020.⁸ Staff’s review of those records showed that for 22 of the 24 moves JFS billed operational
charges, such as truck fees or fuel charges, in addition to the tariffed hourly rate that already

¹ See generally *Wash. Utils. & Transp. Comm’n v. JFS Transp., Inc. d/b/a Coast Movers*, Docket TV-180315, Order 01 (June 20, 2018) (Order 01).

² Order 01 at 2-3 §§ 7-15.

³ Order 01 at 4-5 ¶¶ 28-35.

⁴ See generally *Wash. Utils. & Transp. Comm’n v. JFS Transp., Inc. d/b/a Coast Movers*, Docket TV-180315, Settlement Agreement (Sept. 12, 2018) (Settlement).

⁵ Settlement at 2-3 ¶¶ 8-9.

⁶ Settlement at 3 ¶¶ 10-11.

⁷ *Wash. Utils. & Transp. Comm’n v. JFS Transp., Inc. d/b/a Coast Movers*, Docket TV-180315, Order 02, 7-8 ¶¶ 37-38 (Sept. 24, 2018).

⁸ Decl. of Jacque Hawkins-Jones at 2 ¶ 6.

incorporates them.⁹ The records also show that JFS provided incomplete or improperly filled out bills of lading in each of the 24 moves reviewed by Staff.¹⁰

IV. STATEMENT OF ISSUES

10 Should the Commission impose the \$10,000 portion of the penalty suspended by Order 02 in Docket TV-180315?

11 Should the Commission consolidate Dockets TV-180315 and TV-200861?

V. EVIDENCE RELIED UPON

12 Staff relies on the record in Dockets TV-180315 and TV-200861 as well as the Declaration of Jacque Hawkins-Jones, which Staff has filed concurrently with this motion.

VI. ARGUMENT

A. **The Commission Should Impose The Suspended Penalty On JFS**

13 The Commission may suspend a penalty imposed on a public service company¹¹ to incent compliance with applicable laws.¹² Here, the Commission suspended a \$10,000 portion of the penalty imposed on JFS contingent upon JFS avoiding “any repeat violations of state law, Commission orders, rules, or Tariff 15-C.”¹³

14 The Commission’s rules require “[a]ll household goods carriers . . . to follow the terms, conditions, rates and all other requirements imposed by the commission-published tariff.”¹⁴ That tariff, Tariff 15-C, provides that rates for moves of 55 miles or less “include use of vehicle, equipment, and labor for receiving and/or delivering household goods.”¹⁵ Accordingly, “other

⁹ Decl. of Jacque Hawkins-Jones at 3 ¶ 9.

¹⁰ Decl. of Jacque Hawkins-Jones at 3 ¶ 11.

¹¹ See *In re Enforcement Policy of the Wash. Utils. & Transp. Comm’n*, Docket A-120061, Policy Statement, 12 ¶ 20 (Jan. 7, 2013).

¹² *Wash. Utils. & Transp. Comm’n v. Puget Sound Energy*, Docket UE-160924, Order 04, 8 ¶¶ 25-26 (June 19, 2017).

¹³ Order 02 at 7-8 ¶ 38.

¹⁴ WAC 480-15-490(3).

¹⁵ Tariff 15-C, Item 205, at 48(2).

services performed in the course of hourly-charged transportation shall be charged the hourly rate and not be assessed additional charges, except when other services require special equipment or materials.”¹⁶

15 The Commission’s rules also require that carriers “issue a bill of lading for each shipment of household goods it transports and must give the customer a completed copy of the bill” used for the customer’s shipment.¹⁷ The carrier must “include the information . . . described in the commission’s tariff.”¹⁸

16 The Commission should require JFS to pay the \$10,000 portion of the penalty initially suspended in Docket TV-180315 because JFS has committed repeat violations of the provisions governing the charging of operational expenses and bills of lading. JFS in 2018 admitted to improperly charging operational expenses in violation of the Commission’s rules and Tariff 15-C; it also admitted to failing to provide properly filled out bills of lading.¹⁹ Staff’s compliance review found that JFS continues to improperly charge truck or fuel charges in addition to the hourly rate provided for in the tariff, disclosing 22 instances where the Company had done so. Staff’s compliance review also found that JFS continues to fail to properly and completely fill out bills of lading for their customers, disclosing 24 instances where the Company failed to do so. These repeat violations warrant the imposition of the suspended penalty.

B. The Commission Should Consolidate Dockets TV-180315 And TV-200861

17 The Commission’s rules provide for the consolidation of proceedings where “the facts or principles of law are related” between the proceedings.²⁰ The Commission’s exercise of

¹⁶ Tariff 15-C, Item 205, at 48(3).

¹⁷ WAC 480-15-710(2).

¹⁸ WAC 480-15-710(3).

¹⁹ Settlement at 2 ¶ 8.

²⁰ WAC 480-07-320.

discretion is guided by whether consolidation serves “judicial economy and administrative efficiency,”²¹ and whether consolidation would “unduly delay the resolution of one or all of the proceedings.”²²

18 Dockets TV-180315 and TV-200861 share both facts and principles of law. Staff’s investigation into JFS’s compliance with the terms of the settlement in Docket TV-180315 led both to this motion to impose the suspended penalty and to Staff’s complaint in Docket TV-200861. Both this motion and one of the causes of action in that complaint concern Staff’s allegation that JFS continues to improperly bill customers for operational expenses already included in Tariff 15-C’s hourly tariff rate. Consolidating matters will not unduly delay resolution of either; rather, it will allow the Commission to hear from Staff and the company once and issue a single order deciding all related issues.

VII. CONCLUSION

Staff requests that the Commission grant its motion and (1) require JFS to pay the \$10,000 portion of the penalty suspended by Order 02 in Docket TV-180315, and (2) consolidate Dockets TV-180315 and TV-200861.

DATED this 1st day of December 2020.

Respectfully submitted,
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²¹ *In re Determining the Proper Classification of Lowper, Inc. d/b/a Lowper Corp., a/k/a Lowper Water Co. & Iliad Inc. d/b/a Lowper Water Sys.*, Dockets UW-091006 & UW-110213 (Consolidated), Order 02/Order 01, 2 ¶ 5 (Mar. 24, 2011).

²² *Wash. Utils. & Transp. Comm’n v. Puget Sound Energy*, Dockets UE-111048 & UG-111049 (Consolidated) & UG-110723, Order 04, at 4 ¶ 8 (Sept. 7, 2011).