

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Penalty Assessment
Against Bill's Transfer, Inc., in the amount
of \$100.00

DOCKET NO. TV-060415

COMMISSION STAFF'S
RESPONSE TO BILL'S
TRANSFER, INC.'S
APPLICATION FOR
MITIGATION

1 Pursuant to WAC 480-07-370(1)(c), Commission Staff submits this response to
Bill's Transfer, Inc.'s Application for Mitigation.

I. BACKGROUND

2 The Washington Utilities and Transportation Commission (Commission) assessed a
penalty of \$100 against Bill's Transfer Inc. (Bill's Transfer) on May 31, 2006. The penalty
was assessed for allegedly violating WAC 480-15-390, which requires a household goods
carrier to conduct operations under the name shown on its household goods permit. On June
6, 2006, Bill's Transfer filed an Application for Mitigation of Penalties (Application).

3 Bill's Transfer operates in Washington as a household goods carrier under Permit
No. HG-6605. The company name listed on its permit is "Bill's Transfer, Inc."¹

4 On June 13, 2005, the Commission received correspondence from Bill's Transfer,
and Staff noted that the printed return address on the envelope showed the company name as
"Universal Moving Systems, Inc. D/B/A Bill's Transfer, Inc."² While at the company's
premises to perform a compliance review on June 16, 2005, Investigator Leon Macomber
gave Vince Wagner, the company's owner, an address change form to file the company's

¹ Attachment D.

² Declaration of Sheri Hoyt, Attachment A at page 2.

name change.³ On June 21, 2005, Mr. Macomber gave Licensing Services staff the address change form for the company.⁴ The form contains a notation at the top, “the only change is adding a d/b/a,” and lists the company name as “Bill’s Transfer, Inc. d/b/a Universal Moving Systems.”⁵ The Commission assigned Docket Number TV-051153 to the name change application.⁶

5 Licensing Services staff subsequently sent the company a letter with the proper paperwork and advised Bill’s Transfer to register its trade name with the Department of Licensing.⁷ Bill’s Transfer filed a “Change of Corporate/Individual Name” form with the Commission on July 27, 2005, which states, “I request the name on household goods permit HG-006606 be changed to Bill’s Transfer Inc. D/B/A Universal Moving Systems” and includes the notation, “Please remove the Inc. on Universal Moving Systems.”⁸ A staff check revealed that the company had not registered its new name at the Department of Licensing.⁹

6 Licensing Services staff continued to write or call Bill’s Transfer to request that the company complete registration of its trade name with the Department of Licensing, culminating in a letter of November 1, 2005, advising the company that the Commission would dismiss the name change application if Bill’s Transfer did not comply with the application requirements within 30 days.¹⁰ As of February 10, 2006, Bill’s Transfer still had

³ Declaration of Sheri Hoyt, Attachment A at page 2. Note that Mr. Macomber gave the company a “Notification of Change of Address” form to effect the name change.

⁴ Declaration of Sheri Hoyt, Attachment A at page 2.

⁵ See Attachment E.

⁶ See Declaration of Sheri Hoyt at ¶10.

⁷ Declaration of Sheri Hoyt, Attachment A at page 2.

⁸ Attachment F at page 2.

⁹ Declaration of Sheri Hoyt, Attachment A at page 2. Note that WAC 480-14-400 requires a household goods company to provide proof that it has properly registered its new name with the Department of Licensing, office of the Secretary of State, or other agencies, as may be required.

¹⁰ Declaration of Sheri Hoyt, Attachment A at page 3.

not registered its trade name with Department of Licensing, and on March 31, 2006, the Commission dismissed the company's name change application.¹¹

7 As of May 4, 2006, the company was registered with Department of Licensing under the legal name of "Universal Moving Systems, Inc. doing business as Bills Transfer."¹² The records of the Secretary of State, Corporations Division, reflect the registration of the company "Bill's Transfer, Inc." without an associated trade name.¹³ At the Department of Revenue, the company is listed as "Universal Moving Systems, Inc. doing business as Bills Transfer."¹⁴ Finally, Staff's investigation revealed that Bill's Transfer advertises under both Bill's Transfer and Universal Moving Systems, Inc.¹⁵

II. ARGUMENT

A. The Fact that the Company Name Appears Incorrectly on the Company's Business Envelopes Does Not Excuse the Company From Continuing to Fail to Conduct Operations Under the Name Shown on the Household Goods Permit.

8 Bill's Transfer, Inc. argues for mitigation on the basis that an outside printer accidentally reversed the company's legal name with its trade name on a batch of envelopes that the company since has destroyed.¹⁶ Mitigation on this basis is inappropriate for two reasons. First, the company did use the envelopes. Second, and most important, although Staff worked with the company for nearly a year to achieve proper registration of its trade name, Bill's Transfer failed to follow through with changing its registration to reflect its operations. To this day, the company continues to operate under names that do not appear on its household goods permit. For example, the company advertises its services in the Dex online telephone directory under "Universal Moving Systems, Inc." as well as "Bill's

¹¹ Declaration of Sheri Hoyt, Attachment A at page 3.

¹² *Id.* at page 3.

¹³ Declaration of Sheri Hoyt at ¶14.

¹⁴ Declaration of Sheri Hoyt at ¶15.

¹⁵ Declaration of Sheri Hoyt at ¶13.

¹⁶ Application for Mitigation.

Transfer.”

B. A Company’s Belief that it Need Not Comply with Commission Regulations Does Not Excuse it From Compliance.

9 Bill’s Transfer asks that the penalty be mitigated because the company’s attorney advised that it could use the “d/b/a Universal Moving Systems” after its legal name without filing additional paperwork with the Department of Licensing.¹⁷ It is not clear if the attorney gave this advice in the context of the company’s pending application to add a trade name to its household goods permit or if this was general advice given at the time the attorney filed Bill’s Transfer’s articles of incorporation with the Secretary of State. Notwithstanding the time and context of the attorney’s advice, the Commission requires a name change applicant to have registered its current name with the Department of Licensing before the Commission will process a company’s name change application.¹⁸ Staff informed Bill’s Transfer of this requirement on multiple instances, and the company chose not to comply. Because the company failed to properly register its trade name of Universal Moving Systems with the Commission, even after repeated technical assistance and contact by Staff, mitigation is not appropriate.

C. The Company’s Characterization of the Penalty as a Misunderstanding Does not Excuse the Company’s Failure to Comply.

10 In its Application for Mitigation, Bill’s Transfer states that there has been a misunderstanding for the following reason: “Bill’s Transfer has no intention of changing its name to Universal Moving Systems Inc. We simply asked the WUTC to remove the ‘Inc.’ after the d/b/a: Universal moving Systems Inc.” While the name change application reflects

¹⁷ Application for Mitigation.

¹⁸ See WAC 480-15-400 (“Your name change application must include the application fee..., copies of any corporate minutes authorizing the name change, and proof that you have properly registered your new name with the department of licensing, office of the secretary of state, or other agencies, as may be required.”)

the company's request to delete the "Inc." from Universal moving Systems Inc., the issue remains that Bill's Transfer never properly registered its trade name—not "Universal Moving Systems" or "Universal Moving Systems, Inc."—with the Commission. Despite numerous Staff contacts informing Bill's Transfer that it must register its trade name with the Department of Licensing before the Commission could add the trade name to the company's household goods permit, Bill's Transfer still failed to comply.

III. CONCLUSION

11 The company's arguments that it should not be penalized because a printer had incorrectly printed the company name, because the company's attorney had told the company that it did not need to file any additional paperwork with the Department of Licensing, and because the company has failed to understand the purpose of the name change application do not justify mitigating the penalty, because Staff repeatedly provided technical assistance to the company to assist it in properly registering its trade name with the Commission. Nevertheless, Staff would support mitigation of the penalty if Bill's Transfer were to properly register its trade name with the Commission.

DATED this 26th day of June, 2006.

Respectfully submitted,

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