

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Penalty Assessment
Against First USA Van Lines, LLC., in the
Amount of \$100

DOCKET TV-101004

DECLARATION OF
SHERI HOYT

SHERI HOYT, under penalty of perjury under the laws of the state of Washington, declares as follows:

1. I am over 18 years of age, a citizen of the United States, a resident of the state of Washington, and competent to be a witness.
2. I am employed by the Washington Utilities and Transportation Commission (Commission) as a Consumer Program Specialist in the Consumer Protection Section. I have been employed at the Commission for 18 years, holding various positions. As a Consumer Program Specialist, my responsibilities include conducting investigations regarding annual reports filed by regulated utility and transportation companies. As part of those duties, I investigate household goods carriers that may be operating in violation of Commission statute or rule.
3. On July 7, 2010, First USA Van Lines, LLC, (First USA) filed with the Commission a Request for Hearing (Mitigation Request), in Docket TV-101004. Although First USA indicated that it did not believe a violation occurred, and that it was requesting a decision by an administrative judge, First USA failed to provide information as to why it believed a violation was not committed. On July 21 and 30, 2010, First USA filed Amended Mitigation Requests. First USA clarified that it is contesting the violation occurred, but it is seeking a decision by an Administrative Law Judge, not a hearing. First USA also stated why it believes it should not be assessed a penalty.
4. This Mitigation Request arises from a Notice of Penalties Incurred and Due for Violations of Laws and Rules issued by the Commission on June 30, 2010, in Docket TV-101004. In that Notice, the Commission issued a penalty of \$100 for a violation of Washington Administrative Code (WAC) 480-15-480, which requires household goods carriers to file annual reports with the Commission by May 1 each year.
5. Before recommending the Commission issue penalties, as part of my job, I conducted an investigation of Commission records concerning First USA¹. I documented my investigation in a report titled, "Staff Investigation - 2009 Annual

¹ At the time the investigation was conducted, I was a Compliance Investigator in the Compliance Investigations Section.

Reports.”² I identified the violation in this case from records maintained by the Commission.

Specific Issues Addressed by First USA in its Mitigation Request

First USA states that it mailed the annual report on April 29, 2010, and that it faxed over all paperwork [copies] on the same day [it received the penalty assessment in the mail] to prove that it mailed it.

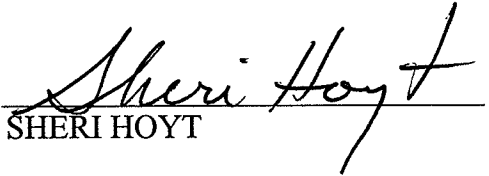
6. Commission records indicate that the Commission mailed an annual report packet to First USA on February 26, 2010, to the address of record: 54 North 45th Avenue, Suite F, Phoenix, Arizona 85043. On March 31, 2010, the Commission mailed a notice to First USA reminding it that the annual report was due May 1, 2010. Further, Commission records indicate that on May 14, 2010, the Commission sent a letter to the same address notifying First USA that its annual report was delinquent and that it must be postmarked by May 31, 2010, to avoid enforcement action.
7. Commission records indicate that First USA applied for household goods authority on October 6, 2009. It was granted provisional permit status on December 22, 2009. It was authorized to provide intrastate household goods moving services for only nine days in the year 2009.
8. The penalty assessment was mailed to First USA via first class mail and certified mail. The Commission received the signed certified card back on July 13, 2010. Although the card did not have a signature dated, the card does have a Phoenix, Arizona, postal date of July 6, 2010. The Commission received First USA’s initial Mitigation Request the next day, on July 7, 2010. The Commission received subsequent amended mitigation requests on July 21, 2010, and July 30, 2010.
9. With its Mitigation Request, First USA provided a copy of its 2009 annual report dated March 2, 2010. The annual report indicates First USA had no Washington intrastate operations in 2009, and that therefore, First USA did not owe the Commission a 2010 regulatory fee.
10. First USA indicated by a hand-written note on the cover page that the company originally mailed its annual report to the Commission on April 29, 2010. The Commission did not receive it. However, First USA was permitted for only nine days in 2009 and, according to the annual report filed, had no Washington intrastate operations and thus owed no regulatory fee.

² A true and accurate copy of the investigation report is attached to this declaration as Attachment A.

Staff Recommendation

11. Due to First USA's unique circumstances: namely, that it was permitted for only nine days in 2009, and owed the Commission no regulatory fees for 2010, and also in consideration that the company states that it mailed the annual report to the Commission on April 29, 2010, Commission Staff recommends the penalty assessment be mitigated in full.

DATED this 3rd day of August 2010 at Olympia, Washington.


SHERI HOYT

Attachment A

Household Goods Carriers Staff Investigation - 2009 Annual Reports June 8, 2010

Purpose

The purpose of this investigation is to determine if 14 household goods carriers are in violation of Washington Administrative Code (WAC) 480-15-480¹. WAC 480-15-480 requires household goods carriers to furnish annual reports to the Washington Utilities and Transportation Commission (commission) no later than May 1 each year.

Background

This investigation was prompted by commission staff's yearly review of annual reports for household goods carriers registered in the state of Washington.

On February 26, 2010, the commission mailed 2009 Annual Report forms and 2010 Regulatory Fee packets to household goods carriers registered with it. A letter from Executive Director and Secretary David W. Danner instructed companies to file annual reports and pay regulatory fees by May 1, 2010². Further, the letter stated failure to file the annual report by May 1 could result in a penalty. Those companies wishing to request an extension to file the annual report were asked to do so prior to May 1, providing a reason for the requested extension. None of the household goods carriers listed in attached Appendix A requested an extension.

On March 31, 2010, the commission mailed a notice to all household goods carriers reminding them that 2009 annual reports and 2010 regulatory fees were due by May 1, 2010³.

Investigation

The 14 household goods carriers listed in attached Appendix A failed to file their 2009 annual reports by the May 1 deadline. On May 14, 2010, the commission sent letters to those companies that had not yet filed their reports. The letter, signed by Mr. Danner, gave an extension to companies to file their reports by May 31, 2010⁴. In the letter, Mr. Danner stated the commission would not seek a fine or move to cancel the authority of any company with a report received by the commission postmarked no later than May 29, 2010.

A review of commission records indicates AAA Moving & Storage, Inc. (Washington) (AAA Moving), which failed to file its 2009 annual report by the May 29, 2010, extended deadline, also failed to file its 2008 annual report timely. On July 3, 2009, in docket TV-090946, AAA Moving was issued a \$100 penalty assessment. The company paid the penalty in full on July 14, 2009.

Commission records also indicate Employees' Enterprises, Inc. (Employees'), which failed to file its 2009 annual report by the May 20, 2010, extended deadline, also failed to file its 2008 annual report timely. On July 1, 2009, in docket TV-090951, Employees' was issued a \$100 penalty assessment. The company paid the penalty in full on July 6, 2009.

¹ See Appendix A for a list of the household goods carriers.

² See Appendix B for a copy of the February 26, 2010, letter sent to household goods carriers.

³ See Appendix C for a copy of the March 31, 2010, reminder notice sent to household goods carriers.

⁴ See Appendix D for a copy of the May 14, 2010, letter sent to delinquent household goods carriers.

In addition, commission records indicate T & S Transportation & Installation, Inc. (T & S Transportation), which failed to file its 2009 annual report by the May 29, 2010, extended deadline, also failed to file its 2007 and 2008 annual reports timely. On June 27, 2008, in docket TV-081099, T & S Transportation was issued a \$100 penalty assessment. The company paid the penalty in full on September 26, 2008. On July 7, 2009, in docket TV-090956, T & S Transportation was issued a \$200 penalty assessment. The company paid the penalty in full on February 10, 2010.

Recommendation:

Staff recommends the commission issue a \$100 penalty assessment to each of the household goods carriers which failed to file a 2009 annual report by May 1, 2010.

In addition, staff recommends the commission issue escalated penalties to the two household goods carriers that have repeat violations of WAC 480-15-480 for failure to file their annual reports by the May 1 deadline in consecutive years. Staff recommends a \$200 penalty assessment for AAA Moving & Storage, Inc. (Washington) and Employees' Enterprises, Inc., as they both received a \$100 penalty assessment in 2009, and recommends a \$400 penalty assessment for T & S Transportation & Installation, Inc., for its third consecutive year of non-compliance, having received a \$100 penalty assessment in 2008 and a \$200 penalty assessment in 2009.

Staff finds it appropriate that the carriers receive escalating penalties due to continued violations of WAC 480-15-480. RCW 81.04.405 allows penalties of \$100 for every such violation. Each and every such violation is a separate and distinct offense and in case of a continuing violation every day's continuance shall be and be deemed to be a separate and distinct violation.

APPENDIX A

	Company Name	Report Received Yes or No	If yes, Date Received	Recommended Penalty Amount
1.	AAA Moving & Storage, Inc. (Washington)	No		\$200
2.	Air Van Moving & Storage, Inc.	No		\$100
3.	America's moving Machines, Inc.	No		\$100
4.	Can't Stop Moving	No		\$100
5.	Employees' Enterprises, Inc.	No		\$200
6.	First USA VanLines, LLC	No		\$100
7.	G. J. Daniels, Inc.	No		\$100
8.	Helping Hands Moving Company	No		\$100
9.	Quality Moving, Inc.	No		\$100
10.	Ratko, Ivan	No		\$100
11.	Stewart, Eric	No		\$100
12.	Swan's Moving & Storage Co., Inc.	No		\$100
13.	T & S Transportation & Installation, Inc.	No		\$400
14.	Yakima Transfer & Storage Co.	No		\$100

APPENDIX B

February 26, 2010

Dear Regulated Company:

Reference: Your 2009 Annual Report and 2010 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 me?

By May 1, you must:

- Complete and file one paper copy or electronic version of the enclosed 2009 annual report form
- Pay your 2010 regulatory fees

What happens if I do not file a completed annual report by May 1?

If you do not file your company's annual report by May 1 UTC staff will recommend a financial penalty between \$100 and \$800 depending on whether you have filed late in the past. If you have repeatedly filed late, the penalty will be higher. Staff may also recommend revocation of your authority to operate in Washington. Staff will also recommend a \$100 financial penalty if your annual report is incomplete, *i.e.*, not signed or lacking requested information, even if it is filed on time.

What happens if I do not pay my regulatory fees by May 1?

If you do not pay your company's regulatory fee by May 1, you will incur a:

- 2 percent penalty on the amount due; and
- 1 percent monthly interest charge on the unpaid balance.

May I request an extension of time if I am unable to file the annual report by May 1?

Yes, however, you must make the request in writing before May 1 and include a valid reason for why you need an extension. We will notify you whether your request is approved or denied. You will still be liable for penalty and interest payments if you fail to pay your fee by May 1.

May I designate any information that I submit in my annual report as confidential?

Yes, however, you must meet two conditions. You may only request confidential treatment 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 their annual report or fee sheet as confidential, we will not treat it as confidential.

Second, you must follow the requirements for filing confidential documents in WAC 480-07-160. You may find this rule at the UTC Web site, www.utc.wa.gov. Locate "Quick Links" on the right side of the home page then select "2009 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. We will not, however, disclose credit card information you list on the fee sheet.

Where do I mail my completed annual report form and regulatory fee payment?

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

May I file my report electronically?

Yes. You may file your report from the UTC's Web site – www.utc.wa.gov. From the home page, select the "document" tab at the top of the page and then locate and select "electronic filing" from the colored bar on the left side of the page. Alternatively you may go directly to the electronic filing page by entering www.utc.wa.gov/e-filing into your browser.

Where may I obtain an electronic version of the annual report form?

Forms are available on our Web site at www.utc.wa.gov. Locate "Quick Links" on the right side of the home page and then select "2009 annual reports."

May I pay my regulatory fees electronically?

Yes. You may call 360-664-1152 or e-mail rcarnes@utc.wa.gov requesting information about payment by Automated Clearing House. A statement of payment should accompany your Annual Report and Regulatory Fee Sheet.

Is there any additional information I 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.
- 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 I Railroad, please also file a copy of your Surface Transportation Board Form R-1 - including statistics specific to the state of Washington.

What should I do if my company is no longer operating in Washington?

You may cancel your registration or permit by using the cancellation forms available on our Web site at www.utc.wa.gov. Locate "Quick Links" on the right side of the home page and then select "2009 annual reports." From the annual reports page select the

cancellation link to access the forms. Please note that if your company operated in Washington during the 2010 calendar year you must pay regulatory fees and file a closing annual report based on the months of operation during 2009.

Who do I contact if I have questions?

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
Secretary

Enclosures

APPENDIX C

Reminder! **Annual Reports and Regulatory Fees are due May 1, 2010**

On February 26, we sent you a 2009 annual report form and 2010 regulatory fee form. This is just a friendly reminder that your company's completed annual report and payment of your regulatory fees are due, postmarked, no later than May 1.

If you already mailed your annual report and regulatory fees, **thank you!** Please disregard this notice. If you have not yet filed, please be sure not to miss this deadline.

You may mail your completed annual report form and regulatory fee payment to:

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

You may also file your report electronically via the UTC's Web filing portal. From the UTC's home page, www.utc.wa.gov, select the "document" tab at the top of the page and then locate and select "electronic filing" from the colored bar on the left side of the page. Alternatively you may go directly to the electronic filing page by entering <http://utc.wa.gov/e-filing> into your browser.

You may obtain an electronic version of the annual report and regulatory fee sheet at our Web site; locate "Quick Links" on the homepage and then select "2009 annual reports".

If you fail to pay your regulatory fee or file your company's completed annual report, postmarked by May 1, UTC staff will recommend the commission issue a financial penalty. Staff may also recommend that the commission cancel your authority to operate in Washington.

Please don't let either happen. If you have questions about your report or fee or need assistance, please contact me at 360-664-1152 or e-mail me at rcarnes@utc.wa.gov.

Sincerely,

Rae Lynn Carnes,
Revenue Accountant

APPENDIX D

May 14, 2010

Attention:

Your annual report to the Utilities and Transportation Commission (commission) was due by May 1 as required by law. You are now subject to enforcement action by the commission, including financial penalties. This letter tells you what you can do to avoid this. **If you have already submitted your annual report, please disregard this notice.**

Commission staff mailed you a 2009 annual report form and fee calculation sheet on February 26, 2010. On March 1, 2010, staff mailed a reminder to file your report and pay your fees. Commission records indicate that you have not yet filed the completed report form.

Commission staff will file for enforcement action against your company unless we receive your completed report postmarked no later than May 31. Enforcement action in this matter may include penalties of up to \$100 for each day it is late and cancellation of your authority to provide household goods moving services in Washington. If your annual report was late last year and you received a penalty, the penalty this year will be incrementally higher.

If the commission receives the report **postmarked no later than May 31**, commission staff will not seek a fine or move to cancel your permit.

Annual report forms are available on the commission's Web site at www.utc.wa.gov. If you have questions or require additional information, please contact Sheri Hoyt, Compliance Investigator, at (360) 664-1149 or shoyt@utc.wa.gov.

Sincerely,



David W. Danner
Executive Director and Secretary