

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment)	DOCKET TV-140944
Against)	
)	ORDER 01
BENS MOVING & DELIVERY)	
SERVICES, INC.)	ORDER GRANTING
)	MITIGATION TO \$200 SUBJECT
in the amount of \$1,000)	TO CONDITION
.....)	

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 28, 2014, 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, 2014, 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 Bens Moving did not file its annual report on May 1, 2014, and had not made that filing by May 15. On June 4, the Commission assessed a penalty of \$1,000 against Bens Moving, calculated as \$100 per business day from May 1 to May 15.
- 3 On June 12, 2014, Bens Moving responded to the Commission’s penalty assessment contesting the violations and requesting a hearing. The Company failed, however, to include a written explanation for its request, as required. On July 7, the Commission issued a notice denying the Company’s request for a hearing and providing an opportunity for the Company to submit a written statement supporting its request for mitigation.
- 4 On July 14, 2014, Bens Moving filed a letter explaining the circumstances that led to the violations. The Company stated that its owner lost his home to foreclosure in February 2014, and was unable to secure permanent housing until June. The

Company also stated it has not done any business since obtaining its permit in September 2013 because it was blocked from advertising on Craigslist until April 2014, and its ads have since been flagged by competitors and removed from the website.

- 5 On July 28, 2014, Commission Staff (Staff) filed a response recommending the Commission reduce the penalty to \$200 due to the Company's compelling circumstances. Staff noted, however, that the Company has not yet filed its annual report, and therefore conditioned its recommendation on the Company making the required filing within 10 days of the date of this order.

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, and the Company should have ensured its annual report was timely filed; the Company was not relieved of that obligation simply because it collected no intrastate revenue.
- 7 The Commission nevertheless agrees with Staff's recommendation. The Commission may consider a number of factors when entertaining a request for mitigation, including a company's history of compliance, a company's annual intrastate revenue, and the likelihood the violation will recur.¹ Bens Moving has been regulated since September 5, 2013; the Commission has consistently mitigated penalties for companies in their first year of operation. The Commission has also consistently denied mitigation to companies that have not yet filed their annual reports by the date the Commission issues a decision. We are willing to make an exception in this case because the Company's owner presented compelling information related to serious, personal financial hardship. The exception is, however, subject to the condition proposed by Staff; the Company must file its annual report no later than 10 days from the date of this order, or the entire \$1,000 penalty will be due and payable without further notice.

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

ORDER

THE COMMISSION ORDERS:

- 8 (1) The request of Bens Moving & Delivery Services, Inc. for mitigation of the \$1,000 penalty is GRANTED in part, and the penalty is reduced to \$200 subject to the condition that the Company file its completed annual report no later than August 11, 2014.
- 9 (2) If the Company fails to file its annual report by August 12, 2014, the entire \$1,000 penalty is due and payable on August 13.
- 10 (3) If the Company files its annual report by August 12, 2014, the \$200 penalty is due and payable no later than August 15, 2014.
- 11 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 August 1, 2014.

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. The Commission will grant a late-filed request for review only on a showing of good cause, including a satisfactory explanation of why the person did not timely file the request. A form for late-filed requests is available on the Commission's website.