

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against AMERICA’S ELITE, INC. in the amount of \$1,000	DOCKET TV-160614 ORDER 01 ORDER IMPOSING AND SUSPENDING PENALTIES ON CONDITION OF FUTURE COMPLIANCE
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BACKGROUND

- 1 On February 29, 2016, the Washington Utilities and Transportation Commission (Commission) mailed annual report and regulatory fee forms to all household goods carriers. The forms included a reminder that companies must file their annual reports and pay their regulatory fees by Monday, May 2, 2016, 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 America’s Elite, Inc. (America’s Elite or Company) did not file its annual report on May 2, 2016, and had not made that filing by May 16. On June 28, the Commission assessed a penalty of \$1,000 against America’s Elite, calculated as \$100 per business day from May 2 to May 16.
- 3 On June 30, 2016, America’s Elite responded to the Commission’s penalty assessment, admitting the violations and requesting mitigation based on the written information provided. The Company explained that it mailed its annual report to the Commission a week after receiving it, but that it “did not send it certified and thus [are] unable to track it.”
- 4 On July 5, 2016, America’s Elite filed a complete annual report and paid the required regulatory fee.
- 5 On July 13, 2016, Commission staff (Staff) filed a response recommending the Commission deny the Company’s request for mitigation because the Company received and paid a reduced penalty of \$250 for violations of WAC 480-15-480 in 2014. On July 15, Staff filed an amended response. In its amended response, Staff explains that it spoke with the Company and learned that it recently hired an employee who will be responsible

for filing its annual reports going forward, and that the employee will file those reports electronically. Based on the Company's efforts to achieve compliance, Staff recommends the Commission suspend a \$500 portion of the penalty, and then waive it, on the condition that America's Elite files a complete 2016 annual report and pays its required regulatory fee by May 1, 2017.

DISCUSSION

6 WAC 480-15-480 requires household good carriers to file annual reports and pay regulatory fees by May 1 of each year, or the first business day thereafter. Companies are responsible for complying with their legal obligations, and the Company should have taken steps to ensure its report was received by the deadline, particularly in light of the penalty it incurred for previous violations.

7 We nevertheless agree with Staff's recommendation and suspend a \$500 portion of the penalty conditioned on the Company filing a complete 2016 annual report and paying its required regulatory fee by May 1, 2017. The Commission may consider a number of factors when entertaining a request for mitigation, including whether the violation was promptly corrected, a company's history of compliance, and the likelihood the violation will recur.¹ Ultimately, the Commission's goal is to deter repeat violations. Although the Company received and paid a \$250 penalty in 2015 for violations of WAC 480-15-480, the Company has since corrected the violations at issue here and implemented a plan to prevent violations going forward. In light of these factors, we believe requiring the Company to pay a \$500 portion of the penalty – which is twice the amount of the previous penalty –and suspending the remaining \$500 portion on condition of future compliance will provide sufficient incentive for the Company to ensure timely filings going forward.

ORDER

THE COMMISSION ORDERS:

8 (1) America's Elite Inc.'s request for mitigation of the \$1,000 penalty is GRANTED, in part. The Commission suspends \$500 of the \$1,000 penalty originally assessed until May 1, 2017, and will waive that amount thereafter provided America's Elite

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

Inc. files its complete 2016 annual report no later than May 1, 2017. If the America's Elite Inc. fails to file its complete 2016 annual report by May 1, 2017, the \$500 suspended portion of the penalty will become due and payable on May 2, 2017, without further action by the Commission.

9 (2) The \$500 portion of the penalty that the Commission does not suspend is due and payable no later than August 19, 2016.

10 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 5, 2016.

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.