

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET TV-190984
SPOKANE PROFESSIONAL MOVERS LLC, D/B/A SPOKANE PRO MOVERS	ORDER 01
in the amount of \$700	GRANTING MITIGATION TO \$400

BACKGROUND

- 1 On December 13, 2019, the Washington Utilities and Transportation Commission (Commission) assessed a \$700 penalty (Penalty Assessment) against Spokane Professional Movers LLC, d/b/a Spokane Pro Movers, (Spokane Pro Movers or Company) for six violations of Washington Administrative Code (WAC) 480-15-555 and one violation of WAC 480-15-560, which adopts by reference Title 49 Code of Federal Regulations (C.F.R.).¹ The Penalty Assessment includes:
 - A \$100 penalty for one violation of 49 C.F.R. § 396.5(b) for oil and/or grease leaking from the wheel hub of one of the Company’s vehicles.
 - A \$600 penalty for six violations of WAC 480-15-55 for failing to complete a background check for every person the carrier intends to hire.
- 2 On December 10, 2019, Spokane Pro Movers submitted to Commission staff (Staff) a corrective action safety plan in which the Company admitted the violations and described the steps it has taken to prevent future occurrences.
- 3 On December 18, 2019, Spokane Pro Movers filed an application for mitigation (Application) admitting the violations and requesting mitigation of the penalty based on the written information provided. In its response, the Company explained that it had corrected all of the violations.

¹ WAC 480-30-221 adopts by reference sections of Title 49 C.F.R. Accordingly, Commission safety regulations with parallel federal rules are hereinafter referenced only by the applicable provision of 49 C.F.R.

4 On December 23, 2019, Staff filed a response recommending the Commission assess a reduced penalty of \$400.

5 On December 30, 2019, the Company paid the \$400 penalty amount recommended by Staff.

DISCUSSION AND DECISION

6 Washington law requires household goods carriers to comply with federal safety requirements and undergo routine safety inspections. In some cases, Commission requirements are so fundamental to safe operations that the Commission will issue penalties for first-time violations.² Violations defined by federal law as “critical” meet this standard.³

7 Violations classified as “critical” are indicative of a breakdown in a carrier’s management controls. Critical violations are subject to penalties of \$100 per violation.⁴

8 The Commission will, however, consider several factors when entertaining a request for mitigation, including whether the company introduces new information that may not have been considered in setting the assessed penalty amount, or explains other circumstances that convince the Commission that a lesser penalty will be equally or more effective in ensuring the company’s compliance.⁵ The Commission also considers whether the violations were promptly corrected, a company’s history of compliance, and the likelihood the violation will recur.⁶ We address each violation category in turn.

9 **49 C.F.R. § 396.5(b).** The Penalty Assessment includes a \$100 penalty for one violation of 49 C.F.R. § 396.5(b) for oil or grease leaking from wheel hubs on one of the Company’s motor vehicles used to provide regulated passenger transportation service. In its response, the Company explained that it the vehicle was already in the repair shop having the leak corrected when it was inspected.

² Docket A-120061, Enforcement Policy for the Washington Utilities and Transportation Commission ¶12 (Jan. 7, 2013) (Enforcement Policy).

³ 49 C.F.R. § 385, Appendix B.

⁴ See RCW 81.04.405.

⁵ Enforcement Policy ¶19.

⁶ Enforcement Policy ¶15.

- 10 Staff recommends no mitigation of this penalty, because this was an out-of-service violation and the Company bears the responsibility of ensuring that its vehicles are free of defects. We agree and deny the request to mitigate this portion of the penalty.
- 11 **WAC 480-15-555.** The Penalty Assessment also includes a \$600 penalty for six violations of WAC 480-15-555, which requires carriers to complete a criminal background check for every person the carrier intends to hire. In its response, the Company admitted the violations and stated that since the violations occurred, Company management has attended Commission training and has new procedures in place to prevent reoccurrence.
- 12 Staff recommends the Commission reduced the penalty by half, because these are first-time violations that Spokane Pro Movers promptly corrected. We agree. In its response, the Company acknowledged the violations and explained the controls it has in place to prevent repeat occurrences. In addition, the violations have since been corrected. In light of these factors, we assess a \$300 penalty for six violations of WAC 480-15-555.

FINDINGS AND CONCLUSIONS

- 13 (1) The Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, and practices of public service companies, including household goods carriers, and has jurisdiction over the parties and subject matter of this proceeding.
- 14 (2) Spokane Pro Movers is a household goods carrier subject to Commission regulation.
- 15 (3) Spokane Pro Movers violated 49 C.F.R. § 396.5(b) because it had oil and/or grease leaking from the wheel hub of one of its vehicles.
- 16 (4) Spokane Pro Movers should be penalized \$100 for one violation of 49 C.F.R. § 396.5(b)
- 17 (5) Spokane Pro Movers violated WAC 480-15-555 when it failed to complete background checks for six of its employees.
- 18 (6) Spokane Pro Movers should be penalized \$300 for six violations of WAC 480-15-555.
- 19 (7) The Commission should assess a total penalty of \$400 for seven violations of WAC 480-15 and Title 49 C.F.R.

ORDER

THE COMMISSION ORDERS:

- 20 (1) Spokane Professional Movers LLC, d/b/a Spokane Pro Movers' request for
mitigation of the \$700 penalty is GRANTED, in part, and the penalty is reduced
to \$400.
- 21 (2) The penalty has been paid in full, and no further payment is due.
- 22 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 January 13, 2020.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK L. JOHNSON
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.