

Agenda Date: June 29, 2023
Item Number: B3

Dockets: **Consolidated TV-210535 and TV-210812**
Company: Household Goods Industry

Staff: Andrew Roberts, Consumer Protection Staff
Mike Young, Regulatory Services Staff

Recommendation

Issue an order (1) fixing the tariff rates and terms proposed by Commission staff (Staff) and requiring carriers to observe them beginning July 1, 2023, and (2) directing staff to initiate a rulemaking, to conclude by December 31, 2023, to explore eliminating maximum rates and requiring regulated carriers to file individual tariff rates.

Background

On July 2, 2021, Clutter, Inc., (Clutter) filed with the Utilities and Transportation Commission (Commission) a Petition to revise Household Goods Tariff 15-C (Tariff 15-C) in Docket TV-210535. On October 11, 2021, the Washington Movers Conference (WMC) filed a Petition to revise Tariff 15-C in Docket TV-210812, requesting removal of the maximum tariff rates. On October 14, 2021, the Commission issued Order 01 in Docket TV-210535, which granted Clutter several exemptions to Tariff 15-C and Commission rules and directed Commission staff (Staff) to initiate a holistic review of Tariff 15-C.

On February 22, 2022, the Commission issued a Notice of Consolidation and Opportunity to Submit Comments, consolidating Docket TV-210535 and Docket TV-210812 and requesting comments from interested persons regarding the proposals in both petitions. After written comments were received, the Commission held a workshop on May 5, 2022, with Clutter, WMC, industry representatives, and interested persons. During the workshop Staff determined that more detailed commercial information was necessary to evaluate the proposed changes to Tariff 15-C. On May 16, 2022, the Commission issued a supplemental notice, requesting additional information to expand the record and help Staff develop a recommendation regarding the proposed tariff changes.

On May 12, 2023, the Commission issued a Notice of Opportunity to File Written Comments and Notice of Item to Be Heard at Open Meeting. Comments were due on June 12, 2023. On

June 20, 2023, Staff held a workshop with interested persons in consolidated Dockets TV-210535 and TV-210812.

Discussion

Staff has completed its review of Tariff 15-C. Staff proposes clarifications to current requirements throughout Tariff 15-C as follows:

- Item 10 Definitions – while binding, non-binding, and supplemental estimates are defined in other Tariff Items, staff proposes to include them in the list of definitions in Item 10. Staff also proposes to include the definition of “force majeure.”
- Item 85 Estimates – staff clarifies that if carriers provide estimates to customers electronically, they may also provide the *Consumer Guide to Moving in Washington State* electronically along with the estimate. The carrier must also maintain a copy of the electronic record showing the estimate and consumer guide was provided in lieu of the customer initialing the estimate form that they received the consumer guide.
- Items 195, 196, and 225 Packing and Container Price schedules –additional clarification that carriers cannot charge separately for packing materials such as tape, bubble wrap, and paper.

Staff proposes more substantial changes, as follows:

- Item 80 Payment of Charges – added a new requirement that carriers issue refunds within 30 days.
- Item 85 Estimates – added a requirement to include more detailed valuation language on the estimate form.
- Item 100 Storage – included a provision that allows carriers to continue treating storage as permanent in cases where the customer selects permanent storage, and then removes the item prior to the end of regulated storage in transit (90 days).
- Item 102 Storage in Transit – a new provision was added allowing carriers to increase rates only after a 30-day notice to the customer.
- Items 50/240 Overtime – Item 50 was removed from Section 1 - General Application of Long Distance and Local Moves and placed in Section 3 - Local Moves as Item 240. Currently, overtime provisions are noted in Section 1 - General Application of Long Distance and Local Moves, and Section 2 – Long distance Moves. Section 3 - Local Moves does not currently contain overtime provisions, relying instead on Item 50 in Section 1 - General Application of Long Distance and Local Moves. Moving Item 50 to Section 3 and renaming it as Item 240 avoids the appearance of two separate overtime provisions applying to long distance moves.

- Item 230 Hourly Rates – included alternate options for minimum charges and recording time spent performing a move on the bill of lading form. Carriers may choose to apply the current standards allowed in Tariff 15-C, or an alternate option. Whether the carrier elects to apply standard methods or alternate options, the same method must be applied to all customers. If carriers choose to implement alternate methods in their business plan, they must submit the *Alternate Time Recording* form to the Commission. Carriers may revert back to the standard options by submitting an updated *Alternate Time Recording* form to the Commission.
- Staff has also included a 12.1% increase to all maximum rates in the tariff, permanently incorporating the temporary rate increase approved by Order 03/01 in these Dockets, which was effective May 27, 2022.

Written Comments and June 20, 2023, Workshop:

Item 10

- At least one carrier requested revisions to allow supplemental estimates on moves conducted under a binding estimate. Staff believes this change requires a rule change.

Item 50/240 Overtime

- While Staff does not propose any changes to the requirement to disclose all charges on the estimate form including overtime charges, several carriers expressed concern over the requirement to calculate overtime charges on the estimate. Staff believes that customers should be provided with an estimate of all charges, including overtime, prior to a move.
- Several industry representatives expressed concern regarding Staff's proposed revisions to Items 50/240 and 190 that stated overtime was not applicable to accessorial services. Workshop participants argued that accessorial services can be expensive to provide. Staff does not see any reason to exempt some services that may be provided at the same time as overtime applicable services and to require carriers to swap between overtime and normal rates during a move. Accordingly, staff removed the language stating that overtime is not applicable from the tariff.

Item 85 – Estimates

- Staff initially proposed language in an attempt to clarify that carriers could use electronic evidence, in lieu of a signature on the estimate form, that the *Consumer Guide to Moving in Washington State* had been provided to the customer. Carriers expressed concern about proposed language and Staff understood the confusion and revised the proposed language to read: "If the Carrier provides the estimate and consumer guide electronically, the carrier is not required to have the customer initial the estimate form indicating they received the consumer guide but must

maintain a copy of the electronic record.”

- Hansen Brothers raised the issue that there are conflicting definitions of “supplemental estimate” in WAC 480-15. In WAC 480-15-020, a supplemental estimate is defined as estimate issued in addition to the original non-binding estimate, and WAC 480-15-630 defines “supplemental estimate” as an estimate provided in addition to “any other estimate.” The company believes that the carrier should be able to issue a supplemental estimate when customer-initiated circumstances change on a shipment traveling under a binding estimate. Staff agrees that there are inconsistencies in the rules related to supplemental estimates, and that basic contract principles require that supplemental estimates can be issued for both binding and non-binding estimates because they constitute a new contract for work not contemplated by the original estimate. Staff removed “nonbinding” from the definition of supplemental estimate and will amend the rules to ensure consistency in the future.

Item 90 – Carrier Liability

- Staff initially proposed “**Depreciated Replacement Cost**” language to clarify how to value damaged or lost goods. Several carriers expressed concerns and confusion with the proposed language. Staff removed its proposed edits to the language contained in this section.
- At the workshop, carriers expressed concern with the established maximum liability of \$5 times the net weight of the shipment, stating that the current amount has been in place since approximately 2008. Since the \$5 maximum was established in 15-C, other national and international operations have moved to \$6, \$8, and more for the maximum liability provisions. Staff agrees the \$5 maximum should be reviewed and based on inflation since 2008, proposes the maximum liability be increased to \$7.63.

Item 100 – Storage

- Carriers wanted the ability to issue a supplemental estimate in instances when the destination of the shipment changes. Staff is not aware of this issue coming up in the complaint process and was not provided with any information that demonstrates this is an issue that needs to be addressed. Staff did not make any proposed changes.
- Carriers appear to support proposed language that allows carriers to treat storage as permanent when the customer indicates the shipment will be in storage more than 90 days, but then subsequently removes the shipment prior to 90 days. Some carriers expressed concern that the language may be used as a way to avoid regulation and suggested some kind of fraud detection. Staff believes the current consumer complaint and compliance investigation process is sufficient and do not see a need for further revision.

Item 102 – Small Goods Transportation and Storage

- Clutter expressed an interest in raising the 25-item limit to 30 items and removing the 500-pound provision. Other carriers expressed concern about staff’s initial proposal to remove the language indicating items can reasonably be lifted by one person. Staff agrees that the intent of the small goods section of the tariff is to move small goods. Removal of one-person lift, expanding the number of items to be moved, or removing the weight limits could encroach on and/or blur the line between the small goods tariff provisions and larger household goods moves. Staff did not make proposed changes to the limitations.

Item 230 –Hourly Rates

- Carriers expressed concern with proposed revisions to Item 230 that allow carriers to choose alternate minimums by completing the Item 230 *Alternate Time Recording* form.
 - Item 230(2) currently requires a minimum charge of one hour for a move during regular hours (Monday through Friday between 8:00 a.m. and 5:00 p.m.).

In Item 230(4)(a), staff proposes allowing carriers the option to charge an alternate minimum charge up to but not to exceed one hour by submitting the *Alternate Time Recording* form to the commission. Whichever option the carrier chooses to charge, it must be applied to all customers.

- Item 230(3) currently requires a minimum charge of four hours when customers request a move Monday through Friday before 8:00 a.m. or after 5:00 p.m., or on a Saturday, Sunday, or state-recognized holiday.

In Item 230(4)(b), staff proposes allowing carriers the option to charge an alternate minimum charge up to but not to exceed four hours by submitting the *Alternate Time Recording* form to the commission. Whichever option the carrier chooses to charge, it must be applied to all customers.

- Item 230(5) currently requires carriers to record time spent performing the move on the bill of lading form to the nearest 15-minute increment.

In Item 230(6), staff proposes to allow carriers the option to record an alternate time spent performing the move in one-minute increments. Carriers will be required to submit the *Alternate Time Recording* form, and it must be applied to all customers.

- Carriers can change their alternate selections back to the standard established minimums already present in Tariff 15-C by completing the *Alternate Time Recording* form. There is a five-business day waiting period between each change.
- Nothing in Staff's proposed Item 230 revisions require carriers to make any alternate selections. If a carrier finds the alternate options burdensome, they are able to continue with current business practices. The alternate provisions are opt-in provisions.

TV-210812 Washington Mover's Conference Petition

Staff reviewed the petition from WMC requesting that the upper limit of the banded rates in Tariff 15-C be removed. On May 26, 2022, the Commission issued Tariff Supplement 2022-01 to Tariff 15-C that increased the maximum rates and charges by 12.1 percent effective May 27, 2022.

Upon Staff's request, WMC supplied some financial data from eight anonymous moving companies including fuel expenses, payroll expenses, vehicle operating expenses, equipment and maintenance expenses, and total operating expenses. The data was for calendar years 2019, 2020, 2021, and part of 2022. The supplemental increase enacted by the commission appears adequate to cover the changes in costs over the past three years.

Staff does not believe the record supports eliminating the maximum rates at this time. Although Staff is amenable to exploring this outcome, Staff believes that such a change would require additional consumer protections, including requirements related to HHG carriers filing individual tariffs with the Commission.

Accordingly, Staff recommends the Commission (1) permanently increase the Tariff 15-C upper rate band by 12.1 percent by incorporating Supplement 2022-01, (2) cancel Supplement 2022-01, and (3) direct Staff to open a rulemaking to explore eliminating the upper rate band, to be concluded by December 31, 2023.

Conclusion

Staff believes that the proposed revisions to Tariff 15-C address recent cost increases and also strike an appropriate balance between maintaining consumer protections and modifying Tariff

15-C to accommodate changing business needs. Staff supports further exploring the possibility of eliminating the upper rate band with increased consumer protections.