

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment	)	DOCKET TV-120910
Against	)	
	)	ORDER 01
ALWAYS ABLE MOVING SERVICE,	)	
LLC,	)	ORDER MITIGATING AND
	)	PARTIALLY SUSPENDING
in the amount of \$2,100.00.	)	PENALTY, SUBJECT TO
	)	CONDITION
.....	)	

**MEMORANDUM**

- 1 **Penalty.** On July 23, 2012, the Washington Utilities and Transportation Commission (Commission) assessed a penalty of \$2,100 against Always Able Moving Service, LLC (Always Able), for violations of Washington Administrative Code (WAC) 480-15-480. This rule requires household goods carriers to file annual reports with the Commission by May 1 each year.
  
- 2 On February 29, 2012, the Commission mailed Annual Report forms and Regulatory Fee packets to all regulated household goods carriers as required by WAC 480-15-480. On May 15, 2012, the Commission mailed a letter to companies that had not yet filed an annual report notifying them that they had incurred, as of that date, a penalty of \$900. The letter explained that companies who filed their annual reports no later than May 25, 2012, would receive mitigated penalties of \$25 per day, with an additional \$25 per day assessed for each instance in the previous five years that the company received a penalty for filing a late report.
  
- 3 Always Able, however, had not filed its 2011 annual report as of May 31, 2012, making the company liable for a penalty of up to \$3,000 as provided in Revised Code of Washington (RCW) 80.04.405.<sup>1</sup> The Commission, considering the nature of the offense and other factors, exercised its discretion to assess less than the maximum

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<sup>1</sup> The Commission’s record of returned annual reports does not include a 2011 report from Always Able as of the date of this Order.

penalty. The Commission assessed a significant, but not unduly punitive, penalty of \$2,100.

4 **Mitigation Request.** On August 10, 2012, Always Able responded to the Commission, requesting a hearing. In its Hearing Request, Always Able did not provide a written statement of the reasons the company believed the alleged violation did not occur. The commission denied the request for a hearing and required Always Able Moving Service, LLC, to file a written statement of the reason(s) in support of its request by 5:00 p.m., Thursday, August 23, 2012.

5 On August 22, 2012, Always Able Moving Service, LLC, filed its response, stating as follows.

On July 23<sup>rd</sup> 2012, I received both an email and a certified letter stating that I failed to file an annual report by May 1, 2012. This was the first notice I received by any means that I needed to fill out any type of report or was late filling out a report. I did NOT receive any paperwork of any type from your agency prior to the July 23<sup>rd</sup> date. I currently reside in an apartment with my family. We have one small lock box where we receive our mail. If any mail comes to our address that does not fit in the small keyed box, it is usually held at our apartment complex front office. Your letter states that Annual Report forms and Fee packets were mailed to me on February 29<sup>th</sup> of this year. There is no way all this information would have fit in our small box; and according to our manager's office, they never received any such packet. I am not sure where this information was actually sent to; or ended up. Your letter indicates that you started accessing fees of 100 dollars a day after the May 1, deadline.

Always Able also posed in its response the following questions:

1. Why did I not receive a certified letter right away?
2. Why did you not send me an email notifying me of this fee being assessed?
3. I do not understand? You obviously had a correct address and email for me, because I received both the certified letter and email on July 23<sup>rd</sup>, after you applied 2,100.00 worth of fees.
4. You stated there is a WAC code which requires me to file an annual report with the Commission and I am fine with complying with that code, if I had known it was time to do so. Is there no code which YOU have to be able to show that I actually received the report?
5. Why are the original report forms and fee packets not sent certified mail to ensure that I receive them?
6. Why did I not receive an email from you stating that the forms were on their way,

so I could have been on the lookout for them.

Finally, Always Able states:

I realize as being a small company owner that I must know and be expected to follow the laws and WAC's for Washington State. I did attend a [sic] 8 hour class when I first started my moving company business, but they cover so much in a short period of time; if they covered a section about filing this report and time frames in which to file it, I do not recall it.

6 **Commission Staff Support for Partial Mitigation.** Commission Staff filed a Response to the Mitigation Request on October 1, 2012. Staff supports mitigating the assessed penalty from \$2,100 to \$1,050 because this is Always Able's first offense.

7 **Commission Determination.** It is the company's responsibility to ensure that the regulatory fee and the annual report are filed each year by the May 1 deadline. Significantly, Always Able acknowledges this point in its letter.

8 The Commission determines that it should grant the Mitigation Request, consistent with Staff's recommendation, by mitigating one-half of the penalty and suspending all but \$250 of the \$1,050 balance, subject to the following conditions:

- Always Able must file its 2011 Annual Report within 15 days following the date of this Order, or confirm by contacting Commission Staff's compliance investigator, Mathew Perkinson ((360) 664-1105 or [mperkins@utc.wa.gov](mailto:mperkins@utc.wa.gov)) that the Commission has received the required report.
- Always Able must file its 2012 annual report by May 1, 2013.

If the company fails to meet these conditions, the suspended penalty will become due without further action by the Commission.<sup>2</sup>

9 This decision is based on Always Able's acknowledgement that it violated the law, its commitment to future compliance, and the fact that this is a first violation by the

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<sup>2</sup>The Commission may assess an additional penalty for any late filing of the 2012 annual report.

company.<sup>3</sup> The Commission's primary goal in reaching its determination is to promote future compliance.

**ORDER**

THE COMMISSION ORDERS THAT:

- 10 (1) The penalty of \$2,100 assessed against Always Able Moving Service, LLC, on July 23, 2012, is mitigated in the amount of \$1,050.
- 11 (2) The unmitigated penalty amount of \$1,050 is suspended to the extent of \$800, subject to the conditions stated in the body of this Order. If these conditions are not satisfied, the suspended penalty amount of \$800 will become due without further action.
- 12 (3) The unmitigated penalty amount of \$250 that is not suspended is due and must be paid to the Commission by Always Able Moving Service, LLC, within 15 days following the date of this Order.
- 13 (4) The Commission delegates to its Secretary authority to enter this Order on behalf of the Commissioners under WAC 480-07-904(1)(h).

DATED at Olympia, Washington, and effective October 26, 2012.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER  
Executive Director and Secretary

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<sup>3</sup> Always Able received its provisional household goods license on July 13, 2011. The company reports that it participated in Commission training. Always Able should avail itself of opportunities for additional training by the Commission and take advantage of the availability of Commission Staff to provide technical assistance better enabling the company to comply with all legal requirements.

**NOTICE TO PARTIES:** This is an order delegated to the Executive Secretary for decision. Under WAC 480-07-904(3), you may seek Commission review of this decision. In addition to serving you a copy of the decision, the Commission will post on its Internet Web site for at least 14 days a listing of all matters delegated to the Executive Secretary for decision under WAC 480-07-904(1). You must file a request for Commission review of this order no later than fourteen (14) days after the date the decision is posted on the Commission's Web site. The Commission will schedule your request for review for consideration at a regularly scheduled open meeting. The Commission will notify you of the time and place of the open meeting at which the Commission will review the order.

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 Web site.