

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

CLUTTER, INC.,

Petitioner,

Seeking Exemptions from Tariff 15-C
and Certain Provisions of WAC 480-15;
Seeking Amendments to Tariff 15-C

DOCKETS TV-210535 and TV-
210812 (*Consolidated*)

ORDER 06/04

In the Matter of the Petition of

WASHINGTON MOVERS
CONFERENCE,

Petitioner,

Seeking Amendments to Tariff 15-C

AMENDING TARIFF 15-C

BACKGROUND

- 1 On July 2, 2021, Clutter, Inc., (Clutter) filed with the Washington Utilities and Transportation Commission (Commission) a Petition in Docket TV-210535 to Revise Household Goods (HHG) Tariff 15-C (Tariff 15-C) and for Exemption from Certain Provisions of Tariff 15-C and Washington Administrative Code (WAC) 480-15 related to (1) how rates and storage fees are assessed, (2) billing time increments, (3) definitions related to the permanent storage of HHG, and (4) minimum hourly requirements (Clutter’s Petition). In its Petition, Clutter requested the Commission open a process to discuss revisions to Tariff 15-C to address modifying the rules from which it sought temporary exemption.
- 2 October 11, 2021, the Washington Movers Conference (WMC) filed a Petition to Revise Tariff 15-C in Docket TV-210812, requesting the Commission eliminate the maximum tariff rate band and maintain a “reasonable minimum rate band” (WMC Petition).¹
- 3 On October 14, 2021, the Commission issued Order 01 in Docket TV-210535, which granted Clutter several temporary exemptions from Tariff 15-C and Commission rules and directed Commission staff (Staff) to initiate a holistic review of Tariff 15-C.

¹ WMC Petition to Revise Tariff 15-C, p. 3 (Oct. 11, 2021).

- 4 On February 22, 2022, the Commission issued a Notice of Consolidation and Opportunity to Submit Comments, consolidating Dockets TV-210535 and TV-210812 and requesting comments from interested persons regarding the proposals in both Petitions. The Commission subsequently convened a workshop on May 5, 2022, to discuss proposed revisions to Tariff 15-C with Clutter, WMC, industry representatives, and other interested persons.
- 5 On May 10, 2022, WMC filed an Amended Petition requesting the removal of the maximum rate band contained in Tariff 15-C for a period of six months.
- 6 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.
- 7 On May 26, 2022, the Commission issued Order 03 in these consolidated Dockets, which denied WMC's request to remove the maximum rate band for six months and authorized Rate Increase Supplement No. 2022-1 (Tariff Supplement). In Order 03, the Commission found that neither WMC's October 11, 2021, Petition nor its Amended Petition provided sufficiently detailed information related to company costs, nor did it identify any elements to be studied during the six-month period or provide any framework for evaluating the study period.
- 8 The Tariff Supplement adopted by Order 03 authorized a temporary 12.1 percent increase to all maximum rates and charges contained in Tariff 15-C until Staff completed its review of Tariff 15-C in these consolidated Dockets.
- 9 On March 10, 2023, Clutter filed a motion requesting further extension of the exemptions granted to the company until June 30, 2023, or until Staff completes its review of Tariff 15-C, whichever occurs sooner.² The Commission granted Clutter's motion on March 27, 2023, in Order 05.

² On April 20, 2022, Clutter filed a motion to extend the exemption granted in Order 01, and on April 28, 2022, the Commission entered Order 02, granting Clutter an extension of the exemptions granted in Order 01 until the earlier of: (1) December 31, 2022, (2) the date the Commission ends the investigation into Tariff 15-C, or (3) the effective date of new rules or amendments to Tariff 15-C.

On November 29, 2022, the Company filed a motion requesting further extension of the exemption until March 31, 2023, and on December 22, 2022, the Commission entered Order 04, granting Clutter an extension of the exemptions granted in Order 01 until the earlier of: (1) March

10 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, which provided notice to the public and interested persons that the Commission would address Staff’s proposed revisions to Tariff 15-C at its regularly scheduled open meeting on June 29, 2023. Staff’s proposed revisions to Tariff 15-C were included with the notice.

11 On June 8, 2023, the Commission issued a Notice of Workshop to Discuss Proposed Revisions to Tariff 15-C.

12 On June 20, 2023, the Commission convened a second workshop to discuss Staff’s proposed revisions to Tariff 15-C. At the workshop, HHG carriers and WMC proposed a 25-30 percent increase to the maximum tariff rate band.

13 On June 22, 2023, WMC filed an “Emergency Petition” to request that the Commission amend Tariff 15-C to modify the description of Small Goods Transportation and Storage to limit the definition of “small goods” to seasonal items. The Commission construes the petition as comments on the proposed revisions to Tariff 15-C.³

14 This matter came before the Commission at its regularly scheduled open meeting on June 29, 2023.

15 Staff proposes the following Changes to Tariff 15-C:

- Item 10: Definitions – Adds definitions for “binding estimates,” “non-binding estimates,” “supplemental estimates,” and “force majeure.” Adopts the definition for “supplemental estimates” contained in WAC 480-15-630 rather than the definition currently found in WAC 480-15-020, which only allows carriers to provide supplemental estimates when the original estimate was a nonbinding estimate. Because supplemental estimates are provided when the circumstances surrounding a move change, supplemental estimates essentially constitute a new contract. Carriers should not be required to perform services that exceed the scope of work described in the original estimate, even if that estimate is binding. Staff recommends the

31, 2023, (2) the date the Commission ends the investigation into Tariff 15-C, or (3) the effective date of new rules or amendments to Tariff 15-C.

³ There is no procedural mechanism available to WMC to file an emergency petition to amend Tariff 15-C. Even under the standard applied in rulemakings, emergency agency action may only be taken if necessary to preserve the public health, safety, or general welfare. *See* RCW 34.05.350. WMC’s basis for its proposals related to the transportation of small goods does not constitute an “emergency” under this standard. The Commission nevertheless addresses WMC’s concerns in this Order.

Commission waive the definition of “supplemental estimate” found in WAC 480-15-020 on its own motion until such time that the rule can be modified to match the definition in WAC 480-15-630.

- Item 80: Payment of Charges – adds a requirement that carriers must issue any refunds within 30 days.
- Item 85: Estimates – adds language explaining that carriers may provide a copy of the *Consumer Guide to Moving in Washington State* electronically if carriers provide estimates to customers electronically. Adds requirement for carriers to maintain a copy of the electronic record showing that the estimate and consumer guide were provided in lieu of the customer initialing the estimate form acknowledging receipt of the *Consumer Guide*. Adds a requirement to include more detailed valuation language on the estimate form.
- Item 100: Storage – adds a provision that allows carriers to continue treating storage as permanent in instances when the customer selects permanent storage then subsequently removes the goods prior to the end of the regulated storage period (90 days).
- Item 102: Storage in Transit – adds a provision requiring carriers to provide 30-day notice to customers for any increase to rates.
- Items 195, 196, and 225: Packing and Container Price schedules – adds language to clarify that carriers may not charge separately for packing materials such as tape, bubble wrap, and paper.
- Items 50/240: Overtime – relocates Item 50 from Section 1 - General Application of Long Distance and Local Moves to Section 3 - Local Moves as Item 240. Currently, overtime provisions are located 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 reduces confusion and eliminates the appearance of two separate overtime provisions that apply to long distance moves.
- Item 230 Hourly Rates – adds alternate options for minimum hourly charges and recording time on the bill of lading form. Carriers may choose to use the current standards in Tariff 15-C or may choose an alternate option. Whether the carrier elects to use standard methods or alternate options, the same method must be applied to all customers. If carriers choose to use alternate methods, they must submit a completed *Alternate Time Recording* form to the Commission, which is attached to this Order as Appendix A. Carriers may revert to the standard options by submitting an updated *Alternate Time Recording* form to the Commission.
- An increase of 12.1 percent to all maximum rates in Tariff 15-C, permanently incorporating the temporary rate increase approved by Order 03/01 in these Dockets.

- Other ministerial changes making minor corrections and updates, including gender neutral language.

16 At the open meeting, WMC offered additional comments. WMC argued that the HHG industry is heavily competitive, more so than any other transportation industry regulated by the Commission. WMC advocated for a 30 percent increase to current maximum rates until the Commission determines whether the maximum rate band should be eliminated.

17 Clutter expressed support for Staff's recommendations, but requested the Commission modify the definition of "small goods transportation and storage" to remove language that limits items to those that can reasonably be carried by one person. Clutter further argued that the Commission can take notice of the increase in inflation since the Tariff Supplement was adopted last year and increase the maximum rate band above the 12.1 percent recommended by Staff.

18 Hansen Bros. Moving & Storage Co. Inc. (Hansen Bros.) agreed with WMC that the maximum rate band should be increased, citing rising inflation, increased operating costs, and widely varying costs of living across the state. Hansen Bros. operates in Seattle, which has had a high cost of living that increases costs for the company.

19 Public Counsel did not object to Staff's recommendation to permanently increase the maximum rate band by 12.1 percent, but expressed serious concerns about increasing rates by 30 percent, as WMC and Hansen Bros. recommend. In the event the Commission chooses to raise the maximum rate band pending the outcome of the rulemaking, Public Counsel advocates that any rate increase based on the Consumer Price Index (CPI) be factored downward in the event the CPI changes while the interim rates are effective.

20 Movher, LLC, also advocated for a higher rate increase, arguing that the cost of doing business is limiting its ability to provide long-distance intrastate moves.

21 Evergreen Transfer and Storage also commented that it believes many consumers are taken advantage of by unscrupulous, unlicensed movers because licensed movers are hindered by maximum rate restrictions.

DISCUSSION

22 We approve Staff's proposed revisions to Tariff 15-C, in part, but modify the Tariff Supplement to adopt a 20 percent increase to the maximum rate band to reflect rising inflation costs since the Tariff Supplement was adopted last year. We find that, with this modification, the proposed changes are reasonable and consistent with the public interest. We turn first to the proposed rate increase, then address other contested items in turn.

23 *Rate Increase.* We recognize that HHG carriers face steadily increasing costs due to inflation and other economic factors. We also recognize that HHG carriers operate in a competitive market, which may eliminate the need for a maximum rate band. Although there is insufficient evidence in the record to support the conclusion that a maximum rate band is no longer necessary to ensure adequate consumer protections, we heard persuasive comments from several HHG carriers that current economic conditions are impacting the industry’s ability to provide regulated service, which ultimately harms consumers.

24 Bearing these factors in mind, we adopt a two-fold approach to resolve this issue. First, we require Staff to initiate a rulemaking to focus narrowly on the issue of whether the HHG moving industry is fully competitive and may benefit from some alternative form of economic regulation, such as removing the maximum rate band in Tariff 15-C and requiring carriers to file individual tariffs. Staff and other interested persons should ensure that any proposed changes to economic regulation are offset by appropriate consumer protections so that all customers benefit equally from those changes.

25 Second, to address carrier costs, which have increased due to inflation since the temporary 12.1 percent increase was adopted in May 2022, we modify the Tariff Supplement to adopt a temporary 20 percent increase to the maximum rates set by Tariff 15-C. To ensure the industry’s economic stability is not hampered by a lengthy proceeding, we require the rulemaking to conclude by January 1, 2024.⁴ The Tariff Supplement will provide temporary relief from rising costs in the HHG industry that vary widely based on carrier location until the rulemaking concludes at the end of the year.

26 We next clarify and resolve other proposed changes to Tariff 15-C.

27 *Supplemental Estimates.* In written comments, Hansen Bros. highlighted inconsistent language related to supplemental estimates in Chapter 480-15 WAC. “Supplemental estimate” is defined in WAC 480-15-020 as an amendment to the original nonbinding estimate, which appears to limit their use only for those moves where a carrier provides a nonbinding estimate. WAC 480-15-630, however, defines supplemental estimate as “in addition to any other estimate” and explains that a supplemental estimate should be issued when the circumstances surrounding a move change in a way that causes the rates

⁴ We modify Staff’s proposal by one day to ensure the rate increase is effective through the end of 2023.

or charges to increase. The rule also requires that a customer accept and sign the supplemental estimate prior to additional work being performed.⁵

28 Both binding estimates and nonbinding estimates describe the scope of work requested by the customer and agreed to by the carrier. Supplemental estimates are required when the scope of work changes to capture any additional work necessary to complete the move. Allowing supplemental estimates only for those moves where nonbinding estimates were provided to customers is contrary to the basic principle of contract law that requires an agreement between parties regarding the nature and scope of the offer made and accepted. Because supplemental estimates are, both by definition and in practice, a separate agreement, they are appropriate in any situation where the circumstances surrounding the move, *i.e.*, the scope of work, changes. Accordingly, we approve the definition of “supplemental estimate” proposed by Staff that mirrors the definition in WAC 480-15-630 and, on our own motion, waive the definition of “supplemental estimate” contained in WAC 480-15-020 until such time that this inconsistency can be corrected in a future rulemaking.⁶ Supplemental estimates may be provided in addition to any original estimate, binding or nonbinding.

29 *Small Goods Transportation and Storage.* Clutter requests modifications to Item 102: Small Goods Transportation and Storage to increase the number of allowable items from 25 to 30 per week when the move is associated with permanent storage, requests to remove the 500-pound weight limit for small goods, and requests to remove language that limits the definition of “small goods” to items that can reasonably be carried by one person.

30 WMC proposes limiting the definition of small goods to “seasonally used household goods” such as “holiday decorations, snow skis, snowboards, winter clothing, pools, and inflatable water toys.”⁷

31 Staff submits that increasing weight limits and the number of items allowed or removing carrying limitations would encroach on the HHG market. We agree. Small goods transportation and storage is separate and distinct from regular HHG moves because it involves the transportation of a limited quantity of items from a residence to a storage facility owned by the carrier for later transport back to the customer’s home. Because the

⁵ WAC 480-15-630(3).

⁶ WAC 480-07-110 provides that the Commission may, on its own motion, waive the application of any rule when doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes.

⁷ WMC Comments (June 22, 2023).

Commission does not regulate the rates and charges for these services, modifying the current weight, item number, and carrying limitations increases the likelihood that these services will compete with household goods moving services, which are rate-regulated. For example, small goods transportation and storage is not meant to be available to a customer seeking to move all their belongings from a small home to storage during a home renovation. The current limitations should be maintained to ensure that HHG carriers are not subject to competition from unregulated carriers.

32 We also agree with Staff that the current limitations are sufficient to prevent small goods carriers from encroaching on the HHG industry and thus decline to adopt WMC's suggestion to further limit the definition of small goods by type. As Staff observes, it is not the type of items but the size and number of items that qualifies a shipment as "small goods."

33 *Recording Time for Billing.* Staff proposes to allow carriers to file with the Commission an Alternate Time Recording Form (ATRF) if a carrier elects to record its time in one-minute increments for all customers, and/or if a carrier chooses to bill minimum hours of (1) less than one hour for weekday moves during business hours and/or (2) less than four hours at all other times. Several interested persons oppose this change, arguing that hourly minimums should be maintained or even increased, and expressing concern that carriers may forget to file an ATRF and incur violations of Commission rules.

34 Staff notes that carriers are not required to file ATFRs and may continue to use the hourly minimums prescribed by Tariff 15-C. If the alternative options are too burdensome or confusing for a carrier, it may continue to record time and charge minimum charges according to the standard requirements, which will not change. Rather than viewing the form as a "regulatory trap," Staff argues that the ATFR ensures all customers are treated equally. We agree. Because HHG billing practices are regulated by the Commission, carriers must disclose which practice they wish to adopt. Filing a one-page form is a reasonable requirement that provides important consumer protection and is not unduly burdensome.

35 *Conclusion.* We find that all other changes proposed by Staff and agreed to by the interested parties who participated in this proceeding are reasonable and consistent with the public interest.

FINDINGS AND CONCLUSIONS

36 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate the rates, rules, regulations, practices, accounts, and

affiliated interests of public service companies, including household goods carriers.

- 37 (2) This matter came before the Commission at its regularly scheduled meeting on June 29, 2023.
- (3) After review and giving due consideration, the Commission finds that Tariff 15-C and the Tariff Supplement should be amended as described in this Order.

ORDER

THE COMMISSION ORDERS:

- 38 (1) Effective July 1, 2023, the revisions proposed to Tariff 15-C are adopted for use by all carriers transporting household goods in the state of Washington that are subject to Commission regulation.
- 39 (2) The Commission authorizes a temporary amendment to Rate Increase Supplement No. 2022-1 to increase the maximum rates set by Tariff 15-C by 20 percent to become effective July 1, 2023, and expire on January 1, 2024.
- 40 (3) Commission Staff is directed to open a rulemaking to examine whether the maximum rate band should be eliminated, to conclude by December 31, 2023.
- 41 (4) On its own motion, the Commission waives the application of the definition of “supplemental estimate” contained in WAC 480-15-020 until that rule can be amended to mirror the definition of “supplemental estimate” contained in WAC 480-15-630.
- 42 (5) The Commission retains jurisdiction over the subject matter to effectuate the provisions of this Order.

Dated at Lacey, Washington, and effective June 29, 2023.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chair

ANN E. RENDAHL, Commissioner

MILTON H. DOUMIT, Commissioner