

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET TV-170516
CHERISH MOVING, LLC	ORDER 01
in the amount of \$1,000	DENYING CONTEST OF VIOLATIONS; DENYING MITIGATION; SUSPENDING PENALTY SUBJECT TO CONDITION

BACKGROUND

- 1 On February 28, 2017, 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 May 1, 2017, 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 Cherish Moving, LLC (Cherish Moving or Company) did not file an annual report on May 1, 2017, and had not made that filing by May 15. On June 13, the Company filed a complete annual report and paid its regulatory fee. On July 6, the Commission assessed a penalty of \$1,000 against Cherish Moving, calculated as \$100 per business day from May 1 to May 15. The penalty assessment advised the Company that the Commission would suspend a \$750 portion of the penalty on the condition that the Company file a complete annual report, pay its regulatory fee, and pay the \$250 portion of the penalty that was not suspended.
- 3 On July 18, 2017, Cherish Moving responded to the Commission's penalty assessment, contesting the violations and requesting mitigation based on the written information provided. In its response, the Company explained that it experienced some difficulty uploading its annual report but believed it had submitted it successfully.
- 4 On August 4, 2017, Commission staff (Staff) filed a response recommending the Commission deny the Company's request for mitigation. The penalty assessment notified the Company that mitigation would only be granted if the Company could demonstrate that the violations occurred due to circumstances beyond its control. Because Cherish

Moving failed to identify any such circumstances, Staff does not support the Company's request. Staff further noted that the Company has the opportunity to pay a reduced penalty of \$250 because this is a first-time violation.

DISCUSSION

- 5 WAC 480-15-480 requires household goods companies to file annual reports by May 1 of each year. Companies are responsible for complying with their legal obligations, and the Company should have ensured its annual report was timely received.
- 6 As a preliminary matter, we deny the Company's contest of the violations. The undisputed facts show that the Commission received the Company's annual report on June 13, 2017, long after the May 1 deadline. The Company has thus violated the law.
- 7 We also agree with Staff that further mitigation of the penalty is not appropriate in light of the circumstances presented here. The penalty assessment advised the Company that requests for mitigation will only be granted if the violations occurred due to circumstances beyond its control.¹ As Staff notes, the Company could have contacted Staff to verify whether its electronic filing was received. It was the Company's error, not the Commission's, that resulted in its late filing. Accordingly, we find that Cherish Moving failed to demonstrate that the violations occurred due to circumstances beyond its control, and conclude that its request for mitigation should be denied.
- 8 We will, however, continue to suspend a \$750 portion of the penalty on the condition that Cherish Moving pays the \$250 portion of the penalty that is not suspended no later than September 12, 2017. If Cherish Moving fails to pay the \$250 penalty by that date, the

¹ Those circumstances include, but are not limited to: death or serious illness of the person responsible for filing the report, or a member of that person's immediate family; destruction by fire or other casualty of the company's place of business or business records; or an act of fraud, embezzlement, theft, or conversion on the part of an employee. Circumstances that do not qualify as an acceptable basis for requesting mitigation include: financial hardship; a misunderstanding or lack of knowledge of Commission rules; failure to receive an annual report form from the Commission; mistakes or misconduct on the part of an employee; employee termination or turnover; personal events such as weddings or graduation ceremonies; and vacations or business trips.

remaining \$750 penalty will become immediately due and payable without further order by the Commission.

ORDER

THE COMMISSION ORDERS:

- 9 (1) Cherish Moving, LLC's request for mitigation of the \$1,000 penalty is DENIED.
- 10 (2) The Commission suspends a \$750 portion of the penalty on the condition that Cherish Moving, LLC pays the \$250 portion of the penalty that is not suspended no later than September 12, 2017.
- 11 (2) If Cherish Moving, LLC fails to pay the \$250 penalty by 5 p.m. on September 15, 2017, the remaining \$750 portion of the penalty will become immediately due and payable without further order by the Commission.
- 12 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 31, 2017.

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.