

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Investigation of

DOCKET TV-220240

SUPER FRIENDS MOVING, LLC,

ORDER 01

For Compliance with WAC 480-15-560  
and WAC 480-15-570.

DEFAULT ORDER; CANCELING  
TEMPORARY AUTHORITY;  
DENYING APPLICATION FOR  
PERMANENT AUTHORITY

**BACKGROUND**

- 1 **Procedural History.** On April 7, 2022, the Commission issued a Notice of Intent to Cancel Temporary Authority; Notice of Intent to Deny Application for Permanent Authority; Notice of Brief Adjudicative Proceeding set for Wednesday, May 18, 2022, at 9:30 a.m. (Notice of Hearing). The Notice of Hearing alleged that Super Friends Moving LLC d/b/a Super Friends Moving (Super Friends or Company) failed to meet the requirements of Washington Administrative Code (WAC) 480-15-305 and WAC 480-15-450 when the Company was unable to achieve a satisfactory safety rating because it denied Commission staff (Staff) access to its records, and such access is necessary to perform a safety review.
- 2 **Brief Adjudicative Proceeding.** The Commission convened a virtual brief adjudicative proceeding (BAP) in this docket on May 18, 2022, before Administrative Law Judge Samantha Doyle. Staff and the Public Counsel Unit of the Office of the Attorney General (Public Counsel) were the only parties who appeared at the BAP. Staff moved for default pursuant to RCW 34.05.440(2) and WAC 480-07-450. Staff also requested that it be allowed to present a prima facie case demonstrating that: 1) Super Friends had not met the provisional permit requirements of receiving a satisfactory safety rating under WAC 480-15-305 because Staff was unable to conduct a safety review, and 2) the Commission had good cause to cancel the Company’s permit for failing to “supply information necessary to the commission for the performance of its regulatory functions when the commission requests the carrier do so.” WAC 480-15-450(1)(f).
- 3 RCW 34.05.440(2) allows the presiding officer discretion to enter a “default or other dispositive order” if a party fails to appear at the hearing. Based on the failure of Super

**Pursuant to RCW 80.01.060(3)  
This packet is the final  
Order in this docket.**

Friends to appear, the Administrative Law Judge granted Staff's request to enter a default order and to allow for presentation of its case.

4 Staff presented the testimony of two witnesses: Staff Investigator Francine Gagne and Transportation Specialist Jason Sharp.

5 Public Counsel presented the testimony of one witness, Stephanie Chase. Chase detailed the Company's long history of non-compliance with Commission rules and penalties assessed for violations of those rules. Public Counsel recommended the Commission cancel Super Friends' provisional permit and deny its application for permanent authority.

6 Default Initial Order. The Commission finds Super Friends in default pursuant to RCW 34.05.440(2) and WAC 480-07-450(1). The Commission also finds that Super Friends denied Staff access and information necessary to perform a safety review of its operations. Further, because Super Friends denied Staff the access needed to perform a safety review, it has not obtained the satisfactory safety rating necessary to successfully complete its provisional period. The Commission therefore has good cause to cancel Super Friends' provisional household goods carrier permit and deny its application for permanent authority.

7 **Appearances.** Jeff Roberson, Assistant Attorney General, Lacey, Washington, represents Commission Staff.<sup>1</sup> Lisa Gafken, Assistant Attorney General, Seattle, Washington, represents Public Counsel.

## DISCUSSION

### A. Default

8 The Notice of Hearing included a notice that any party who failed to attend or participate in the hearing may be held in default in accordance with the terms of RCW 34.05.440 and WAC 480-07-450. RCW 34.05.440(2) provides: "If a party fails to attend or participate in a hearing or other stage of an adjudicative proceeding ... the presiding officer may serve upon all parties a default or other dispositive order, which shall include a statement of the grounds for the order." WAC 480-07-450(1) provides that that the Commission

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<sup>1</sup> In formal proceedings, such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

may find a party in default if the party fails to appear at the time and place set for a hearing.

9 Staff moved to hold Super Friends in default pursuant to RCW 34.05.440(2) and WAC 480-07-450. Public Counsel did not oppose the motion for default. Based on Super Friends' failure to appear, the Administrative Law Judge orally granted Staff's request to enter a default order and to hear Staff's case on the merits.

10 **Decision.** The Commission electronically served Super Friends with the Notice on April 7, 2022, 41 days in advance of the BAP. Accordingly, Super Friends was properly and legally served and provided due and proper notice of the time and place set for hearing. Super Friends did not appear at the BAP and is therefore held in default.

11 Super Friends' failure to appear at the BAP is unacceptable. Both the Commission and the parties expended resources preparing for, and attending, the BAP. This default order cancels the Company's temporary authority and denies its application for permanent authority, as discussed below, and should serve to impress upon Super Friends the importance of responding to the Commission's communications and notices and cooperating with Commission Staff.

12 WAC 480-07-450(2) provides that: "A party who is dismissed from a proceeding or found in default may contest the order of dismissal or default by written motion filed within ten days after service of the order. A dismissed party found in default may request that the order be vacated and, if the order is dispositive of the proceeding, that the proceeding be reopened for further process." A notice appearing at the end of this order provides instructions for filing such a request with the Commission.

**B. Temporary Authority to Operate as a Household Goods Carrier and Application for Permanent Authority**

13 WAC 480-15-305 provides that, prior to a grant of permanent authority, an applicant must complete a provisional period of not less than six months and not more than 18 months. Among other things, the applicant also must receive a satisfactory safety rating in a safety review conducted by Commission Staff.

14 Pursuant WAC 480-15-450(1)(f), the Commission may cancel a carrier's permit for good cause, such as failing to "supply information necessary to the commission for the performance of its regulatory functions when the commission requests the carrier do so."

15 Francine Gagne, a compliance investigator with the Commission, testified concerning her investigation into the operations and business practices of Super Friends. Gagne prepared an exhibit summarizing the findings.<sup>2</sup> Gagne testified that Super Friends terminated communication with Staff, denying the access needed to conduct a safety review.

16 **Decision.** By failing to appear at the hearing held on May 18, 2022, Super Friends has also failed to meet the burden of proving that the Company did not violate WAC 480-15-305, or demonstrate that the Commission should not cancel its permit pursuant to WAC 480-15-450(1)(f). The evidence presented by Staff through exhibits and witness testimony establishes that Super Friends denied Staff the access needed to perform a safety review and has not obtained the satisfactory safety rating necessary to complete its provisional period. The Commission therefore has good cause to cancel Super Friends' provisional household goods carrier permit and deny its application for permanent authority.

#### FINDINGS AND CONCLUSIONS

- 17 (1) The Commission is an agency of the State of Washington vested by statute with authority to regulate persons engaged in the business of transporting household goods for compensation over public roads in Washington.
- 18 (2) The Commission has jurisdiction over the subject matter of this proceeding and over Super Friends.
- 19 (3) Super Friends denied Staff the access needed to perform a safety review and has not obtained the satisfactory safety rating necessary to complete its provisional period in violation of WAC 480-15-305.
- 20 (4) The Commission has good cause to cancel Super Friends' provisional household goods carrier permit and deny its application for permanent authority pursuant WAC 480-15-450(1)(f).
- 21 (5) Pursuant to RCW 34.05.440(2), Super Friends is held in default for failing to appear at the May 18, 2022, BAP.

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<sup>2</sup> See Exhibit 1.

- 22 (6) As an unpermitted carrier, Super Friends must cease and desist conducting operations requiring permit authority unless or until the required authority is obtained from the Commission

**ORDER**

THE COMMISSION ORDERS:

- 23 (1) Super Friends Moving LLC d/b/a Super Friends Moving, is held in default. Should Super Friends Moving LLC d/b/a Super Friends Moving, fail to respond to this Order by filing a written motion within ten (10) days requesting that the order be vacated pursuant to WAC 480-07-450(2), the default in this proceeding shall remain in place.
- 24 (2) Super Friends Moving LLC d/b/a Super Friends Moving's provisional permit is canceled and its application for permanent authority is denied.
- 25 (3) Super Friends Moving LLC d/b/a Super Friends Moving is ordered to immediately cease and desist operations as a household goods carrier within the state of Washington.
- 26 (4) The Commission retains jurisdiction over the subject matter and the parties to this proceeding to effectuate the terms of this Order.

Dated at Lacey, Washington, and effective June 6, 2022.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

*/s/ Samantha Doyle*  
SAMANTHA DOYLE  
Administrative Law Judge

### NOTICE TO PARTIES

This is an Initial Order. The action proposed in this Initial Order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order and you would like the Order to become final before the time limits expire, you may send a letter to the Commission waiving your right to petition for administrative review.

**WAC 480-07-450(2) states that a party held in default has 10 days after service of a default order to file a written motion requesting the order be vacated and the proceeding reopened for further process. The party held in default must state the grounds relied upon, including its reasons for failing to appear.**

WAC 480-07-610(7) provides that any party to this proceeding has 21 days after service of this initial order to file a petition for administrative review (Petition). Section (7)(b) of the rule identifies what you must include in any Petition as well as other requirements for a Petition. WAC 480-07-610(7)(c) states that any party may file a response to a Petition within 7 days after service of the Petition.

WAC 480-07-830 provides that before the Commission enters a final order any party may file a petition to reopen a contested proceeding to permit receipt of evidence that is essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. The Commission will give other parties in the proceeding an opportunity to respond to a motion to reopen the record, unless the Commission determines that it can rule on the motion without hearing from the other parties.

WAC 480-07-610(9) provides that an Initial Order will become final without further Commission action if no party seeks administrative review of the Initial Order and if the Commission does not exercise administrative review on its own motion.

Any Petition or response must be electronically filed through the Commission's web portal as required by WAC 480-07-140(5).