

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the)	DOCKET TV-050537
)	
PENALTY ASSESSMENT AGAINST)	ORDER 02
ALL MY SONS MOVING &)	
STORAGE OF SEATTLE, INC.)	
)	INITIAL ORDER RECOMMENDING
)	APPROVAL AND ADOPTION OF
)	SETTLEMENT AGREEMENT
.....)	

1 *Synopsis: This Order proposes approval and adoption of the Settlement Agreement between All My Sons and Commission Staff, directing the Company to pay penalties of \$40,950 under the terms of the Agreement.*

I. INTRODUCTION

2 **Nature of Proceeding.** Docket TV-050537 involves a penalty assessment by the Washington Utilities and Transportation Commission (Commission) against All My Sons Moving & Storage of Seattle, Inc. (All My Sons or the Company) in the amount of \$69,600.

3 **Procedural History.** The Commission, through its Staff, issued the penalty assessment against All My Sons on September 15, 2005, alleging 696 violations of Commission rules and household goods tariff, specifically, WAC 480-015 and Commission Tariff 15-A. On September 28, 2005, All My Sons filed a Request for Hearing, or in the alternative a request for mitigation of the amount of the penalties.

4 The Commission convened a prehearing conference in this docket at Olympia, Washington on November 14, 2005, before Administrative Law Judge Karen M. Caillé. The Parties agreed to a procedural schedule, including time to engage in settlement discussions prior to March 21, 2006. The Commission modified the procedural schedule twice to allow the Parties more time to continue their settlement discussions.

5 The Parties filed a Settlement Agreement and Narrative Supporting Settlement Agreement on June 16, 2006. The proposed Settlement Agreement is uncontested and, if approved, would resolve all issues in the proceeding.

6 **Initial Order.** The presiding administrative law judge recommends approval and adoption of the proposed Settlement Agreement.

7 **Appearances.** The parties' representatives follow.

All My Sons	by Greg W. Haffner Curran Mendoza P.S. P.O. Box 140 555 West Smith Street Kent, WA 98035-0140
-------------	---

Commission Staff ¹	by Jennifer Cameron-Rulkowski Assistant Attorney General P.O. Box 40128 Olympia, WA 98504-0128
-------------------------------	---

II. DISCUSSION

8 **Background.** The underlying dispute concerns penalties assessed by the Commission against All My Sons. In the Spring of 2005, Staff conducted a compliance audit of the business practices of All My Sons. Staff found violations of laws and rules enforced by the Commission and compiled its findings along with technical assistance and recommendations in an audit report.² Based on the

¹ In formal proceedings before the Commission, the Commission's Regulatory Staff (Commission Staff) appears as an independent party with the same privileges, rights, and responsibilities as any other party in the proceeding. Commission Staff operates independently from the three-member Commission, who decides the merits of each case. *RCW 34.05.455, WAC 480-07-340.*

² Staff Audit Report of the Business Practices of All My Sons Moving and Storage of Seattle, Inc., April 2005.

recommendations in the report, on September 15, 2005, the Commission assessed penalties of \$69,600 against All My Sons for 696 violations.³

9 In response to the penalty assessment, All My Sons filed a request for hearing and, in the alternative, mitigation of the penalty amount.⁴ All My Sons claimed that certain of the alleged violations were technical and that prior technical assistance relating to those violations had not been provided, disputed the legal basis for some of the alleged violations, disputed the factual basis of some of the alleged violations, asked that penalties be mitigated for alleged violations that the Company claimed caused no harm to customers, denied receiving notices from the Commission, and claimed that with respect to some of the alleged violations Staff's prior technical assistance had been confusing.⁵

10 Prior to the submission of any testimony, the Parties engaged in settlement discussions covering all of the issues in dispute and negotiated an agreement.

11 **Settlement Agreement.** The proposed Settlement Agreement is a full settlement of all issues presented in this proceeding, executed by All My Sons and Commission Staff. The proposed Settlement Agreement is attached to this Order as Appendix A, and is largely self-explanatory. The Settlement reduces the penalty amount from \$69,600 to \$40,950, and All My Sons admits to violations in the following categories:

- Failure to use forms that complied with Commission regulations (16 violations),
- Failure to complete estimate forms and bills of lading according to applicable laws and regulations (101 violations),
- Failure to issue supplemental estimates when circumstances changed in a way to cause the estimated charges to increase (4 violations),
- Charging one customer more than the allowed 125% of the written estimate (1 violation),

³ See Penalty Assessment No. TV-050537 issued September 15, 2005, for a detailed list of violations and specific penalty amounts.

⁴ All My Sons' Request for Hearing, September 28, 2005.

⁵ *Id.*, pp. 1-2.

- Failure to timely respond to, timely resolve, and keep a proper record of customer claims and complaints as required by Commission regulations (254 violations),
- Failure to calculate the fuel surcharge according to the fuel charge supplement of the household goods tariff (36 violations),
- Failure to provide customers with a written estimate of the total overtime charges and obtain the customers' written consent for overtime services (3 violations),
- Failure to maintain a copy of the weight tickets as required (1 violation),
- Failure to pass through commercial ferry costs to a customer (1 violation), and
- Failure to properly calculate the mileage rate for a mileage-rated move (1 violation).

12 The Settlement provides that the remaining violations alleged in the penalty assessment along with the associated penalties are withdrawn.

13 The Settlement provides a payment schedule, with each installment due and payable on the first of each month, with a five-day grace period.

14 **Decision.** This Order recommends that the Commission approve and adopt the proposed Settlement Agreement as a full resolution of the issues pending in this docket.

15 The Commission will approve settlements when doing so is lawful, the settlement terms are supported by an appropriate record, and when the result is consistent with the public interest in light of all the information available to the Commission. WAC 480-07-750. Here, the Commission resolves these questions by reviewing the proposed Settlement Agreement, the narrative supporting the Settlement Agreement, and the record in this proceeding.

16 Based on the record developed in this proceeding, the issues raised in this docket are adequately addressed and resolved by the proposed Settlement Agreement. The Parties have reached an agreement that represents a compromise of their positions, finding it in their best interests to avoid the expense, inconvenience, uncertainty, and delay necessitated by ongoing adversarial proceedings. The Settlement Agreement addresses the Company's violations and provides mitigation of penalties for certain violations. Under the circumstances, the proposed Settlement Agreement is fair and in the public interest, and should be approved and adopted as a full resolution of the issues pending in Docket TV-050537.

III. FINDINGS OF FACT

17 Having discussed above in detail the evidence received in this proceeding concerning all material matters, and having stated findings and conclusions upon issues in dispute among the parties and the reasons therefore, the undersigned ALJ now makes and enters the following summary of those facts, incorporating by reference pertinent portions of the preceding detailed findings:

- 18 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington vested by statute with the authority to regulate public service companies, including companies that hold authority to transport household goods in the state of Washington for compensation.
- 19 (2) All My Sons Moving & Storage of Seattle, Inc. is a public service company as defined in RCW 81.04.010, and holds authority to transport household goods in the state of Washington for compensation.
- 20 (3) On September 15, 2005, the Commission issued a penalty assessment of \$69,600 against All My Sons, alleging 696 violations of Commission rules and household goods tariff.
- 21 (4) On June 16, 2006, All My Sons and Commission Staff filed a proposed Settlement Agreement that, if approved, would resolve all the issues in this docket.

- 22 (5) Under the terms of the Settlement Agreement, All My Sons admits to violations in specific categories and the penalty amount is reduced from \$69,600 to \$40,950.

IV. CONCLUSIONS OF LAW

23 Having discussed above all matters material to this decision, and having stated detailed findings, conclusions, and the reasons therefore, the undersigned ALJ now makes the following summary conclusions of law, incorporating by reference pertinent portions of the preceding detailed conclusions:

- 24 (1) The Commission has jurisdiction over the subject matter of this proceeding and the parties to the proceeding.
- 25 (2) The proposed Settlement Agreement, attached to this Order as Appendix A, and incorporated by reference as if set forth in full in the body of this Order should be approved and adopted by the Commission as a reasonable resolution of the issues presented.
- 26 (3) The Commission should order All My Sons to pay penalties in the amount of \$40,950 according to the payment plan set forth in paragraph 5 of the Settlement Agreement.
- 27 (4) The Commission should retain jurisdiction to effectuate the terms of this Order.

28 Based on the above findings of fact and conclusions of law, the undersigned administrative law judge makes and enters the following initial order.

V. INITIAL ORDER

29 THIS ORDER RECOMMENDS That the Commission:

- 30 (1) Approve and adopt the proposed Settlement Agreement filed by All My Sons
and Commission Staff on June 16, 2006, which is attached to this Order as
Appendix A, and incorporated by reference as if set forth in full in the body of
this Order.
- 31 (2) Direct All My Sons to pay penalties in the amount of \$40,950 according to the
payment plan set forth in paragraph 5 of the Settlement Agreement.
- 32 (3) Retain jurisdiction to effectuate the terms of this Order.

DATED at Olympia, Washington, and effective July 10, 2006.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

KAREN M. CAILLÉ
Administrative Law Judge

NOTICE TO THE 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 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order any party may file a Petition to Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

RCW 80.01.060(3), as amended in the 2006 legislative session, 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 fails to exercise administrative review on its own motion. You will be notified if this order becomes final.

One copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). An Original and eight copies of any Petition or Answer must be filed by mail delivery to:

Attn: Carole J. Washburn, Executive Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, Washington 98504-7250

[Service Date July 10, 2006]

Appendix A