

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET TV-170233
SAFE-TO-GO-MOVERS, LLC d/b/a JAMES & JOHN MOVERS	ORDER 02
in the amount of \$10,200	FINAL ORDER

BACKGROUND

- 1 On April 19, 2017, the Washington Utilities and Transportation Commission (Commission) assessed a \$10,200 penalty (Penalty Assessment) against Safe-To-Go-Movers, LLC d/b/a James & John Movers (Safe-To-Go-Movers or Company) for 103 critical violations of Washington Administrative Code (WAC) 480-15-570, which adopts by reference Title 49 Code of Federal Regulations (C.F.R.) Part 391 related to driver qualifications and Part 395 related to driver hours of service.
- 2 On April 27, 2017, Safe-To-Go-Movers responded to the Penalty Assessment, admitting the violations and requesting mitigation of the penalty based on the written information provided. In its response, the Company addressed only the violations related to its employee's medical certificate. The Company accepted responsibility for its conduct and explained that the violations were immediately corrected. The Company further explained that it has created electronic copies of driver licenses and medical certificates to use as backup when hard copies are misplaced. Commission staff (Staff) filed a response recommending the Commission assess a reduced penalty of \$5,200.
- 3 On May 8, 2017, the Commission entered Order 01, Order Granting Mitigation to \$5,200 (Order 01). Order 01 directed the Company to either pay the penalty or file jointly with Staff a proposed payment arrangement no later than May 19, 2017.
- 4 On May 16, 2017, Safe-To-Go-Movers filed with the Commission a request for review of Order 01.¹ The Company seeks further reduction of the penalty but does not challenge the

¹ Safe-To-Go-Movers requested Commission review pursuant to WAC 480-07-904, which provides that the Commission will consider a request for review of orders delegated to the executive secretary during its regularly scheduled open meeting. The Commission exercises its discretion under WAC 480-07-110(1) to modify the application of WAC 480-07-904 in this case

findings Order 01 makes with respect to the violations. In its request, the Company explains that the penalty will create a significant financial burden.

- 5 On May 23, 2017, Staff responded to the Company's request. Staff recommends the Commission uphold the penalty assessed in Order 01 and suggested the Company make payment arrangements to decrease the financial impact of the penalty.

DISCUSSION AND DECISION

- 6 We deny the Company's request for further mitigation of the \$5,200 penalty. In Order 01, the administrative law judge decreased the penalty assessed for violations related to medical certification from \$10,100 to \$5,100, consistent with the Commission's practice of affording some lenience to those companies that promptly correct first-time violations. Safe-To-Go-Movers allowed its employee – who could have had a serious undiagnosed medical condition – to operate its vehicles on 101 occasions. Accordingly, we find that the seriousness of the violations weighs against further reducing the penalty amount.
- 7 We will, however, exercise our discretion to suspend half of the penalty in light of the Company's financial situation. The Commission's ultimate goal in any enforcement proceeding is to obtain compliance, not create an unsurmountable financial burden for a small company. We therefore suspend a \$2,600 portion of the penalty for a period of two years, and then waive it, subject to the following conditions: 1) Safe-To-Go-Movers must either pay the \$2,600 portion of the penalty that is not suspended within 90 days of the date of this Order or file jointly with Staff a proposed payment arrangement within 20 days of the date of this Order; and 2) Safe-To-Go-Movers may not incur any critical violations of WAC 480-15 or Title 49 C.F.R. upon re-inspection.

FINDINGS AND CONCLUSIONS

- 8 The Commission adopts as its own the findings and conclusions set out in paragraphs 11 through 16 of Order 01 in this Docket. We modify the findings and conclusions in paragraph 17, as follows:

and will instead consider the Company's request pursuant to the procedures applicable to initial orders under WAC 480-07-825.

- 9 (7) Safe-To-Go Movers is assessed a penalty of \$5,200. A \$2,600 portion of the penalty is suspended for two years, and then waived, subject to the conditions set out in paragraph 7, above.

ORDER

THE COMMISSION ORDERS:

- 10 (1) Safe-To-Go-Movers, LLC d/b/a James & John Movers' petition for administrative review is GRANTED, in part.
- 11 (2) Safe-To-Go-Movers, LLC d/b/a James & John Movers is assessed a penalty of \$5,200. The Commission suspends a \$2,600 portion of the penalty for a period of two years, and then waives it, subject to the following conditions:) Safe-To-Go-Movers, LLC d/b/a James & John Movers must either pay the \$2,600 portion of the penalty that is not suspended within 90 days of the date of this Order or file jointly with Staff a proposed payment arrangement within 20 days of the date of this Order; and 2) Safe-To-Go-Movers, LLC d/b/a James & John Movers may not incur any critical violations of WAC 480-15 or Title 49 C.F.R. upon re-inspection.

DATED at Olympia, Washington, and effective June 5, 2017.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

ANN E. RENDAHL, Commissioner

JAY M. BALASBAS, Commissioner