

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

JFS TRANSPORT INC., d/b/a COAST  
MOVERS,

Respondent.

In the Matter of Determining the Proper  
Carrier Classification of, and Complaint  
for Penalties Against:

JFS TRANSPORT INC., d/b/a COAST  
MOVERS

DOCKETS TV-180315 and  
TV-200861  
(Consolidated)

ORDER 03

CONSOLIDATING DOCKETS;  
PREHEARING CONFERENCE  
ORDER; ORDERING  
RESPONDENT TO CEASE AND  
DESIST; DEFAULT ORDER;  
IMPOSING AND SUSPENDING  
PENALTIES

**BACKGROUND**

- 1 **Procedural History.** On December 1, 2020, the Washington Utilities and Transportation Commission (Commission) issued a Complaint for Penalties; Notice of Prehearing Conference set for Tuesday, January 12, 2021, at 9:30 a.m. The Complaint alleges that JFS Transport Inc., d/b/a Coast Movers, (JFS or Company) violated RCW 81.80.075(1), on at least four occasions by (1) offering on at least two occasions to transport household goods within the state of Washington without the necessary permit required for such operations, and (2) advertising on at least two occasions to transport household goods within the state of Washington without a permit. The Complaint further alleges that JFS violated WAC 480-15-490(3) and Tariff 15-C, Item 205, on at least 22 occasions by charging customers operational expenses, such as truck and fuel charges, already incorporated into Tariff 15-C hourly rate. Commission staff (Staff) requests the Commission assess penalties of up to \$5,000 for each violation of RCW 81.80.075(1),

and that the Commission order JFS to refund to customers amounts charged in excess of the tariffed rates.

2 On December 1, 2020, Commission staff (Staff) filed a motion to impose suspended penalties and consolidate proceedings in Dockets TV-180315 and TV-200861 (Motion).<sup>1</sup> Staff's Motion alleges that JFS violated Order 02 in Docket TV-180315 by committing repeat violations of state law and Commission rules. Staff requests that the Commission consolidate the dockets because they share common facts and principles of law and recommends that the Commission impose the \$10,000 penalty suspended in Docket TV-180315.

3 **Conference.** The Commission convened a virtual prehearing conference (PHC) in this docket on January 12, 2021, before Administrative Law Judge Samantha Doyle. Staff was the only party who appeared at the PHC. 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 JFS had operated and advertised as a household goods carrier without the required permit from the Commission and in violation of the settlement adopted in the Commission's Order 02 in Docket TV-180315.

4 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 JFS to appear, the Administrative Law Judge granted Staff's request to enter a default order and to allow for presentation of its case. Additionally, the presiding officer granted the motion to consolidate proceedings.

5 Staff presented the testimony of two witnesses, investigators Jacque Hawkins-Jones and Susie Paul.

6 **Default Initial Order.** The Commission finds JFS in default pursuant to RCW 34.05.440(2) and WAC 480-07-450(1). The Commission also finds that JFS previously

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<sup>1</sup> *Washington Utilities and Transportation Commission v. JFS Transport Inc., d/b/a Coast Movers*, Docket TV-180315, Order 02, ¶ 38 (September 24, 2018). In that docket, the Commission adopted a settlement stipulation that included suspending a \$10,000 portion of the assessed penalty subject to the following conditions:

- JFS must not incur any repeat violations of state law, Commission orders, rules, or Tariff 15-C during that two-year period; and
- JFS must timely pay all monthly installments of the \$5,000 penalty amount.

operated and advertised as a household goods carrier without a permit. Further, the Commission finds that the Company violated the settlement conditions in Docket TV-180315. The Commission orders JFS to pay a \$20,000 penalty for four violations of RCW 81.80.075(1), and to pay the suspended penalty of \$10,000. The Commission also requires JFS to refund overcharges to customers for operational expenses, such as truck and fuel charges, already incorporated into the tariff hourly rate.

7 **Appearances.** Jeff Roberson, Assistant Attorney General, Lacey, Washington, represents Commission Staff.<sup>2</sup>

## DISCUSSION AND DECISION

### A. Default

8 The Complaint for Penalties and Notice of Prehearing Conference includes a notice that any party who fails 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 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 JFS in default pursuant to RCW 34.05.440(2) and WAC 480-07-450. Based on JFS’s 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 JFS with the Notice on December 1, 2020, 33 days in advance of the PHC. Accordingly, JFS was properly and legally served and provided due and proper notice of the time and place set for hearing. JFS did not appear at the PHC and is therefore held in default.

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<sup>2</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.

11 JFS's failure to appear at the PHC is unacceptable. Both the Commission and the parties expended resources preparing for, and attending, the PHC. This default order imposes the maximum statutory penalty, as discussed below, and should serve to impress upon JFS the importance of responding to the Commission's communications and notices.

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 notice with the Commission.

**B. Operating as a Household Goods Carrier Without Authority**

13 RCW 81.80.010(5) defines "household goods carrier" as:

a person who transports for compensation, by motor vehicle within this state, or who advertises, solicits, offers, or enters into an agreement to transport household goods.

14 RCW 81.80.075 prohibits household goods carriers from operating for compensation in Washington without first obtaining the required permit from the Commission. Upon proof of unauthorized operations, RCW 81.04.510 authorizes the Commission to order the unpermitted company to cease and desist its activities. Additionally, RCW 81.04.110 authorizes the Commission to file a complaint on its own motion setting forth any act or omission by a company that violates any law, or any order or rule of the Commission.

15 Accordingly, if the Company is found to be operating as a household goods carrier without the required permit, the Commission is authorized and directed to enter an order requiring the corporation to cease and desist activities subject to regulation under Title 81.

16 RCW 81.80.075(4) subjects persons who engage in business as a household goods carrier in the state of Washington without the required permit to a penalty of up to \$5,000 for each violation. Any person who engages in business as a household goods carrier in

violation of a cease and desist order issued by the Commission under RCW 81.04.510 is subject to a penalty of up to \$10,000 per violation.

- 17 Jacque Hawkins-Jones, a compliance investigator with the Commission, testified concerning her investigation into the operations and business practices of JFS. Hawkins-Jones prepared an exhibit summarizing the findings.<sup>3</sup> Hawkins-Jones testified that JFS advertised its services and provided a quote for services in October 2020 without a permit. Additionally, Hawkins-Jones testified that her compliance review showed JFS did not comply with Order 02 when it failed to complete the Moving Checklist on any of the 24 moves reviewed, and when it improperly charged 22 customers a transportation fee, including fuel charges.
- 18 Susie Paul, a compliance investigator with the Commission, also testified concerning her investigation into the operations and business practices of JFS. Paul prepared a declaration summarizing her contemporaneously written notes.<sup>4</sup> Paul testified that JFS advertised its services and provided a quote for services in September 2020 without a permit.
- 19 **Decision.** By failing to appear at the hearing held on January 12, 2021, JFS has also failed to meet the burden of proving that the Company did not violate RCW 81.80.075 or Order 02 in Docket TV-180315. The evidence presented by Staff through exhibits and witness testimony establishes that JFS has engaged in business as a household goods carrier without the necessary permit required by RCW 81.80.075, and that the Company also violated WAC 480-15-490(3) and Tariff 15-C, Item 205, when it improperly charged transportation fees.

### **FINDINGS AND CONCLUSIONS**

- 20 (1) The Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, and practices of public service companies, including household goods companies, and has jurisdiction over the parties and subject matter of this proceeding.

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<sup>3</sup> See Exhibit 1, Declaration of Jacque Hawkins-Jones.

<sup>4</sup> See Exhibit 2, Declaration of Susie Paul.

- 21 (2) JFS is a household goods company subject to Commission regulation.
- 22 (3) On at least two occasions, JFS offered to transport household goods within the state of Washington without first having obtained a household goods carrier permit from the Commission in violation of RCW 81.80.075.
- 23 (4) On at least two occasions, JFS advertised to transport household goods without first having obtained a household goods carrier permit from the Commission in violation of RCW 81.80.075.
- 24 (5) On 22 occasions, JFS improperly charged customers a transportation fee in violation of WAC 480-15-490(3), Tariff 15-C, Item 205, and Order 02 in Docket TV-180315.
- 25 (6) Pursuant to RCW 34.05.440(2), JFS is held in default for failing to appear at the January 12, 2021, PHC.
- 26 (7) The Commission should penalize JFS \$5,000 for each of the four violations of RCW 81.80.075 and impose the \$10,000 suspended penalty for 22 violations of WAC 480-15-490(3), Tariff 15-C, Item 205, and the Order 02 in Docket TV-180315, for a total penalty of \$30,000.
- 27 (8) JFS is classified as a common carrier of household goods within the state of Washington, pursuant to RCW 81.80.010(4) and WAC 480-15-020.
- 28 (9) The Commission is directed by RCW 81.04.510 to order JFS to cease and desist from conducting operations requiring permit authority unless or until the required authority is obtained from the Commission.

## **ORDER**

### **THE COMMISSION ORDERS That**

- 29 (1) JFS Transport Inc., d/b/a Coast Movers, is held in default. Should JFS Transport Inc., d/b/a Coast Movers, 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.

- 30 (2) JFS Transport Inc., d/b/a Coast Movers, is classified as a common carrier of household goods within the state of Washington.
- 31 (3) JFS Transport Inc., d/b/a Coast Movers, must cease and desist all operations unless and until its permit is reinstated or it applies for and obtains a new permit from the Commission.
- 32 (4) JFS Transport Inc., d/b/a Coast Movers is assessed a penalty of \$30,000.
- 33 (5) 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 January 22, 2021.

**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 480-07-825(2)(a) provides that any party to this proceeding has 20 days after the entry of this initial order to file a petition for administrative review (Petition). Section (2)(b) of the rule identifies what you must include in any Petition as well as other requirements for a Petition. WAC 480-07-825(2)(c) states that any party may file an answer (Answer) to a Petition within 10 days after service of the petition.

**A party held in default must file a written motion requesting the order be vacated pursuant to WAC 480-07-450(2) within 10 days after service in order to have the Commission consider a Petition for Administrative Review from that party.**

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 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 not accept answers to a petition to reopen unless the Commission requests answers by written notice.

RCW 80.01.060(3) 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.

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