

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

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|---------------------------------------|---|------------------|
| In the Matter of a Penalty Assessment |) | DOCKET TV-143221 |
| Against |) | |
| |) | ORDER 02 |
| PMC MOVING, LLC |) | |
| |) | ORDER ON REVIEW |
| in the amount of \$5,900 |) | |
| |) | |
| |) | |

BACKGROUND

- 1 On September 18, 2014, the Washington Utilities and Transportation Commission (Commission) assessed a penalty of \$5,900 (Penalty Assessment) against PMC Moving, LLC (PMC or Company) for 58 violations of Washington Administrative Code (WAC) 480-15-570, which adopts by reference 49 C.F.R. Part 391 related to driver qualifications and hours of service, and one violation of WAC 480-15-560, which adopts 49 C.F.R. Part 396 related to vehicle inspection, repair, and maintenance.
- 2 On October 6, 2014, PMC responded to the Penalty Assessment admitting the violations and requesting mitigation of the penalty based on the written information provided, which Commission Staff (Staff) opposed. On November 4, 2014, the Commission issued Delegated Order 01 denying the Company’s request for mitigation.
- 3 On November 13, 2014, the Company filed a letter requesting review of Order 01¹ to address some of the points in its mitigation request that the Company believes were overlooked, including alleged inaccuracies in Staff’s report.
- 4 The Penalty Assessment included a penalty of \$100 for three violations of 49 C.F.R. Part 396 related to vehicle inspection, repair, and maintenance. The Penalty Assessment also included \$100 penalties for each of 58 violations of 49 C.F.R. Part 391.45(b)(1) because the company failed to ensure its three drivers were medically examined and certified. During the compliance review, Staff found that in June 2014, three company drivers drove without the required medical certification for a total of 58 days: Nickolas Urbach drove 17 days, Julian Lave drove 20 days, and Tyler Prall

¹ Order 01 was delegated to the Executive Secretary for decision. Petitions for review of delegated orders are heard at the Commission’s regularly scheduled open meeting. *See* WAC 480-07-904(3).

drove 21 days. The Company claims that Staff's violation count is incorrect with respect to Mr. Prall because the Commission's safety inspector "misconstrued" Company records; the Company argues that Mr. Prall drove on 10 days, not 21.

5 At the Commission's December 11, 2014, open meeting, Alex Lutz, owner of PMC Moving, presented Company time sheets showing that Mr. Prall drove on just seven days in June rather than 21. Staff verified the accuracy of the time sheets, but noted that the records should have been made available during the July 2014 compliance review, or, at the very least, provided with the Company's initial mitigation request. Based on those factors, Staff does not support mitigation.

DISCUSSION AND DECISION

6 PMC Moving presented documentation at the Commission's December 11, 2014, open meeting demonstrating that Mr. Prall drove on only seven occasions in June rather than 21 as Staff originally concluded based on records provided during the Company's compliance review. Although Staff continues to oppose mitigation, we are inclined to give the Company the benefit of the doubt based on Mr. Lutz's assurances of future compliance. We therefore reverse the findings in Order 01 with respect to Mr. Prall and find seven violations of WAC 480-15-570 and 49 C.F.R. Part 391.45(b)(1). This reduces the total violation count from 59 to 45, and correspondingly reduces the penalty from \$5,900 to \$4,500. Because a penalty of this size is significant for a small company, PMC Moving may pay the penalty in seven installments, as follows:

| | |
|-------------------|----------|
| December 30, 2014 | \$642.85 |
| January 30, 2014 | \$642.85 |
| February 27, 2015 | \$642.85 |
| March 30, 2015 | \$642.85 |
| April 30, 2015 | \$642.85 |
| May 29, 2015 | \$642.85 |
| June 30, 2015 | \$642.90 |

FINDINGS AND CONCLUSIONS

7 (1) The Utilities and Transportation Commission is an agency of the State of Washington which may assess financial penalties against regulated household goods carriers that are in violation of commission order, rule, regulation, or decision of the Commission pursuant RCW 81.04.405.

- 8 (2) This matter was brought before the Commission at its regularly scheduled meeting on December 11, 2014.
- 9 (3) Based on the documentation presented by the Company at the Commission's December 11, 2014, open meeting, the violation count with respect to Mr. Prall should be reduced from 21 to seven, and the penalty should be reduced accordingly, to \$4,500. The Company should be permitted to pay the penalty in seven installments, outlined above, by June 30, 2015.

ORDER

THE COMMISSION ORDERS:

- 10 (1) The request of PMC Moving, LLC for mitigation of the \$5,900 penalty is GRANTED, in part, and the penalty is reduced to \$4,500.
- 11 (2) The \$4,500 penalty is due and payable to the Commission according to the following installment schedule:

| | |
|-------------------|----------|
| December 30, 2014 | \$642.85 |
| January 30, 2014 | \$642.85 |
| February 27, 2015 | \$642.85 |
| March 30, 2015 | \$642.85 |
| April 30, 2015 | \$642.85 |
| May 29, 2015 | \$642.85 |
| June 30, 2015 | \$642.90 |

DATED at Olympia, Washington, and effective December 15, 2014.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

PHILIP B. JONES, Commissioner

JEFFREY D. GOLTZ, Commissioner

NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-07-870.