

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

WASHINGTON UTILITIES AND	)	DOCKET NO. TV-050537
TRANSPORTATION COMMISSION,	)	
	)	
Complainant,	)	
v.	)	PETITION FOR RECONSIDERATION
	)	
ALL MY SONS MOVING & STORAGE OF	)	
SEATTLE, INC.,	)	
	)	
Respondent.	)	
.....	)	

Pursuant to RCW 34.05.470 and WAC 480-07-850, Respondent, All My Sons Moving & Storage of Seattle, Inc. (“All My Sons”) petitions the Washington State Utilities and Transportation Commission (the “Commission”) to reconsider and revise its Order on Review Approving and Adopting Settlement Agreement Subject to Condition, service date September 14, 2006 (the “Order”). All My Sons requests that the Commission approve the Settlement Agreement without the condition as it was approved by Judge Caille.

Challenges to paragraphs 4, 14, 26, 27 and 31:

All My Sons challenges paragraphs 4, 27 and 31 of the Order because the Commission conditions acceptance of the Settlement Agreement only if paragraph 6 thereof, what the Commission defines as a “safe harbor provision”, is null and void. All My Sons challenges paragraphs 14 and 26 of the Order because All My Sons believes it is not in the public interest for the Commission to prohibit the “safe-harbor provision” in the context of this settlement where the Commission Staff (“Staff”) required as a condition of the settlement that All My Sons admit to all the alleged violations listed in the Settlement Agreement despite All My Sons opinions to the contrary.

The benefit of any settlement is severely eroded when it is limited simply to the withdrawal of clearly improper and untimely claims, rather than a settlement of claims that are also in dispute. If there is no benefit to settlement, there will be fewer settlements and more cases will proceed to hearings, costing the public more money.

Anything that interferes with the possibility of settlement is contrary to the expressed desire of the Commission as stated earlier in this proceeding. In Order No. 01, the Prehearing Conference Order, paragraph 11, Judge Karen Caille stated on behalf of the Commission:

The Commission supports the informal settlement of matters before it. Parties are encouraged to consider means of resolving disputes informally.

Requiring a settlement wherein the regulated carrier must admit to violations that it disputes does not encourage settlement. All My Sons was denied a settlement that is traditionally used in other forms of civil litigation wherein each party admits that the settlement is not an admission of fault by either party. Despite a request by All My Sons for such a provision to be included in the Settlement Agreement, Staff refused to allow it.

All My Sons agrees with the Commission that a settlement should be “a satisfactory resolution of the issues specifically disputed” that is “a compromise of their positions, and allows them to avoid the expense, inconvenience, uncertainty, and delay associated with the ongoing adversarial proceedings.” See the Order, paragraph 15. However, when the only option made available is to admit to claims that are disputed or go through with the adversarial process, there is little incentive to settle.

All My Sons requested the “safe-harbor provision” as part of the settlement because Staff required All My Sons to admit to the violations as set forth in the Settlement Agreement. Despite what is said in the Settlement Agreement, All My Sons actually disputes many of those alleged violations and was only willing to admit to them if Staff would agree not to pursue All My Sons for similar violations that might exist because of improper forms and procedures that were in place during the periods of the audit and the contested proceeding (or at least the three and one-half months after the service date of the Penalty Assessment). The settlement negotiations were essentially technical assistance to All My Sons but with a substantial penalty of \$40,950 plus many thousands of dollars in attorney fees paid by All My Sons.

One reason the Settlement Agreement was contingent upon being accepted by the Commission as agreed was because All My Sons did not want to admit to any violations unless it couldn't be charged with similar violations that it felt it wasn't entirely responsible for. If All My Sons is going to be required to admit fault to 418 violations that it disagrees with, and cannot obtain some security against further allegations of the same violations during the reasonable

period negotiated, then All My Sons might as well contest the alleged violations and seek a substantial reduction in the amount of the penalty by proving its case at a hearing on the evidence. In order to avoid the expense of such a hearing, All My Sons and Staff felt it was reasonable to allow All My Sons three and one-half months from the date of the Penalty Assessment, through December 31, 2005, to make the corrections identified as necessary. To remove this key provision from the settlement agreement and have the parties return to the contested proceedings process is not in the public interest.

Challenge to paragraph 11:

All My Sons challenges paragraph 11 of the Order because it wrongly infers that All My Sons had no notice of what it should respond to. All My Sons did not submit anything in response to the opportunity to object to Staff's responses to the Commission's bench requests because All My Sons did not know the purpose of the bench requests. Unlike the Penalty Assessment, where All My Sons was given notice of what it was being accused of, there was no notice in this proceeding to All My Sons that the Commission was considering the responses to the bench requests to make a policy decision about the "safe harbor provision". Had All My Sons been aware of why the Commission was requesting the data, All My Sons would have responded with a request to submit evidence and argument on its behalf. All My Sons requests the opportunity to do so if the Commission is not inclined to reconsider its ruling in the Order.

Challenge to paragraph 13:

All My Sons challenges paragraph 13 of the Order because Staff's response to Bench Request No. 3, provided that paragraph 6 of the Settlement Agreement would preclude Staff from pursuing penalties for only 38 alleged violations identified in the chart following Response to Bench Request No. 3, not the 44 alleged violations identified in the chart following the response to Bench Request No. 2, as misquoted by the Commission in the Order.

Challenge to paragraphs 14 and 26:

All My Sons challenges the statements in paragraph 14 and 26 of the Order that the number of customer complaints and apparent violations by All My Sons increased significantly from year to year. These allegations were not at issue in either the Penalty Assessment or during the settlement negotiations. All My Sons was not given an opportunity to dispute these allegations since they were not relevant to the settlement process and they should not be included

as part of an Order where there has been no admission to them or opportunity given to refute them. As partial evidence of the inequity of such a statement, one need look no further than the fact that Staff asserts no formal complaints have been filed against All My Sons since December 2004. See Response to Bench Request No. 2.

Summary.

All My Sons requests that the Commission reconsider the Order and approve the Settlement Agreement as approved by Judge Caille, including paragraph 6 thereof.

Dated: September 20, 2006.

CURRAN MENDOZA, P.S.



GREG W. HAFFNER

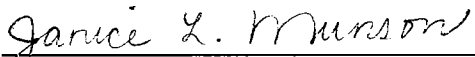
Counsel for All My Sons Moving  
& Storage of Seattle, Inc.

Docket No. TV-050537  
**CERTIFICATE OF SERVICE**

I hereby certify that I have this day sent for service (*Respondent's*) *Petition for Reconsideration*, upon all parties of record in this proceeding, as follows:

<p><i>Filing pursuant to WAC 480-07-145(2)(d):</i> <u>records@wutc.wa.gov</u> (courtesy copy)</p>	<p><i>Service pursuant to WAC 480-07-150:</i> Jennifer Cameron-Rulkowski Assistant Attorney General (P.O. Box 40128) 1400 S. Evergreen Park Dr. SW Olympia, WA 98504 <b>(Copy, via ABC Legal Services, Inc.)</b></p>
<p><i>Filing pursuant to WAC 480-07-145(3)(a):</i> Executive Secretary Washington Utilities and Transportation Commission (P.O. Box 47250) 1300 S. Evergreen Park Dr. SW Olympia, WA 98504-7250 <b>(Original + 8 copies, via ABC Legal Services, Inc.)</b></p>	

DATED this 21<sup>st</sup> day of September 2006.

  
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Janice L. Munson