BEFORE THE WASHINGTON

## UTILITIES AND TRANSPORTATION COMMISSION

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| In the Matter of the Penalty Assessment AgainstNORTHWEST MOVERS, LLC, NORTHWEST MOVERS CENTRAL, LLC, BEKINS NORTHWEST, KRIS AND LAURI O’BANNONIn the Amount of $7,000. . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .  | )))))))))) | DOCKET TV-140170ORDER 01INITIAL ORDER DISMISSING PENALTY ASSESSMENT |

1. **Procedural History.** On February 3, 2014, the Washington Utilities and Transportation Commission (Commission) issued Penalty Assessment TV-140170 against Northwest Movers, LLC, Northwest Movers Central, LLC, Bekins Northwest, Kris and Lauri O’Bannon (Northwest Movers or Company) in the amount of $7,000, alleging 70 violations of WAC 480-15-187, which requires an application be filed with the Commission prior to transferring or acquiring control of an existing household goods permit.
2. On February 20, 2014, Northwest Movers filed with the Commission a request for hearing, denying the alleged violations occurred. Northwest Movers stated that it did not acquire the company operating authorities for Action Moving Services, Inc., d/b/a Accountable Moving & Storage, located in Spokane and Seattle, Washington.
3. **Hearing.** Pursuant to RCW 34.05.482 and WAC 480-07-610, the Commission determined that a brief adjudicative proceeding (BAP) was appropriate for determining whether Northwest Movers committed the violations and, if so, the amount of penalty to be imposed. On March 25, 2014, the Commission issued a Notice of Brief Adjudicative Proceeding and set April 21, 2014, at 2:00 p.m. as the time for the parties to make oral statements concerning their positions.
4. **Appearances.** Michael Fassio and Brett Shearer, Assistants Attorney General, Olympia, represented Commission Staff (Staff).[[1]](#footnote-1)Mr. Kris O’Bannon, *pro se*, Olympia, represented Northwest Movers.
5. **Applicable Law.** WAC 480-15-187 sets out Commission procedures for the transfer of existing household goods permits. In relevant part, WAC 480-15-187(1) states:

If the holder of a permit wishes to transfer the permit, the person or entity receiving the permit must complete a household goods moving company permit application on a form provided by the commission. The person or entity receiving the permit is the applicant.

1. **Evidence.** At hearing, Staff presented documentary evidence and the testimony of Ms. Lynda Holloway.
2. Northwest Movers Central, LLC, received temporary authority as a household goods company on October 3, 2013. Northwest Movers LLC received its household goods permit, Certificate HG-908, via a transfer of authority on November 21, 2013. Both companies are registered under the same trade name, Bekins Northwest.
3. In January 2014, Ms. Holloway investigated a report that Mr. Rick Campbell of Action Moving, Spokane, and Mr. Steve Suhre of Accountable Moving & Storage (Accountable), Seattle, had each referred to their respective companies as “Bekins Northwest.” Ms. Holloway spoke to both of these employees and learned that Bekins Northwest had recently acquired those companies.
4. Later in January 2014, Ms. Holloway called Action Moving’s Spokane office and Accountable’s Seattle office and heard the telephone answered “Bekins Northwest” on several occasions at both locations. Ms. Holloway checked the Bekins Northwest website (Exh. LH-1) and the Bekins Northwest FaceBook page (Exh. LH-2) and saw that Jeff Gish, a prior owner of Action Moving and Accountable, was mentioned in a customer’s testimonial; according to the web posting, it appeared that Mr. Gish had become an employee of Bekins Northwest. Ms. Holloway checked Commission records and determined that Mr. Gish had not notified the Commission that he was relinquishing or intended to transfer his companies’ permits.[[2]](#footnote-2)
5. After considering Bekins Northwest’s recent violation of WAC 480-15-187[[3]](#footnote-3) and the appearance of a repeat violation, Ms. Holloway determined that Northwest Movers LLC must have taken over the household good permit of Action Moving and of Accountable. Ms. Holloway did not attempt to contact Mr. O’Bannon. Shortly thereafter, the Commission issued this penalty assessment (Exh. LH-3).
6. Mr. O’Bannon testified for the Company.[[4]](#footnote-4) He stated that Northwest Movers LLC had not been involved with any sort of transaction with Action Moving or Accountable. However, another affiliated company that his wife Lauri O’Bannon is involved with, Bellingham Transfer & Storage (BT&S), had purchased the assets of those two companies.
7. Mr. O’Bannon contends that there is no requirement to apply to the Commission for a household goods company already holding a permit to open a new branch office or to acquire another company’s equipment.
8. **Discussion.** Staff contends that Northwest Movers acquired the household goods permit of two other moving companies owned by Jeff Gish without filing the appropriate application with the Commission. The Company asserts that it already has a permit of its own and does not need another permit. The Company also asserts that it was not involved in the alleged transfer, but acknowledged that another affiliate company that is applying to use the Bekins Northwest trade name was the buyer of the Gish companies’ assets.
9. WAC 480-15-187 requires companies wishing to transfer a household goods permit to apply to the Commission in order to accomplish the transfer. This process ensures that the Commission is aware of the true ownership of household goods companies and facilitates improved consumer protection for the public.
10. There is no corresponding rule or regulation governing the expansion of an existing household goods company that already holds a permit from the Commission. Opening another branch office or beginning operations elsewhere in the state does not require the filing of additional permit paperwork with the Commission.
11. In this case, there is no evidence that any of the corporate entities named in the penalty assessment had any involvement with the acquisition of assets from Action Moving or Accountable. Nor is there any evidence that Northwest Movers made use of or conducted business under the household goods permit previously held by Jeff Gish in the names of Action Moving and Accountable.
12. The Commission seeks to maintain clear company ownership information for purposes of responding to consumer complaints and enforcing applicable regulations. Lauri O’Bannon is connected with Northwest Movers, LLC, and Northwest Movers Central, LLC, as well as BT&S, the household goods company that purchased the assets of Action Moving and Accountable. Mr. O’Bannon testified that BT&S also has an application pending with the Commission to make use of the “Bekins Northwest” trade name.
13. It was BT&S’ apparently premature use of the Bekins Northwest trade name that led to confusion over whether Northwest Movers had acquired Action Moving and Accountable. Staff failed to prove that Northwest Movers acquired Action Moving or Accountable. Even if Northwest Movers had acquired those companies, WAC 480-15-187 would not have obligated Northwest Movers as an existing permit holder to file an application with the Commission to approve that acquisition. The O’Bannons’ individual interests in separate household goods entities may create a complicated situation, but it is not a violation of WAC 480-15-187.
14. **Commission Decision.** Northwest Movers did not violate WAC 480-15-187. The penalty assessment should be dismissed.

**ORDER**

THE COMMISSION ORDERS THAT:

1. The penalty assessment entered on February 3, 2014 against Northwest Movers, LLC, Northwest Movers Central, LLC, Bekins Northwest, and Kris and Lauri O’Bannon is dismissed.

DATED at Olympia, Washington, and effective April 30, 2014.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

 ADAM E. TOREM

 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 480-07-825(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 ten (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) 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.

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 **five (5)** copies of any Petition or Answer must be filed by mail delivery to:

Attn: Steven V. King, Executive Director and Secretary

Washington Utilities and Transportation Commission

P.O. Box 47250

Olympia, Washington 98504-7250

1. In adjudications the Commission’s regulatory staff participates like any other party, while the Administrative Law Judge or the Commissioners make the decision. To assure fairness, the Commissioners and the presiding administrative law judge do not discuss the merits of the proceeding with regulatory staff or any other party without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455. [↑](#footnote-ref-1)
2. On February 10, 2014, Mr. Gish sent a letter to the Commission requesting to cancel his household goods permit. *See* Docket TV-140198. [↑](#footnote-ref-2)
3. On August 16, 2013, the Commission penalized Olympic Moving & Storage, Inc., a household goods company operated by Kris O’Bannon, in the amount of $4,700 for violating WAC 480-15-187 by failing to file an application with the Commission before acquiring two locations operated by another household goods carrier on July 1, 2013. In that case, Mr. O’Bannon admitted not applying to transfer the household goods permit and asked for the penalty to be reduced. On December 26, 2013, the Commission denied mitigation and upheld the penalty (Exhibit LH-4). [↑](#footnote-ref-3)
4. Mr. O’Bannon initially introduced documentary evidence in support of his position but later determined he did not wish to formally admit the documents to the record. Mr. O’Bannon was allowed to withdraw the documents. [↑](#footnote-ref-4)