

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

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

CHERYL BALL d/b/a ACME
MOVING LABOR

DOCKET TV-161206

ORDER 02

ORDER GRANTING REQUEST
FOR HEARING

BACKGROUND

- 1 On December 19, 2016, the Washington Utilities and Transportation Commission (Commission) entered Order 01, Order Instituting Special Proceeding; Complaint Seeking to Impose Penalties; Notice of Hearing (Order 01) in Docket TV-161206. The Commission initiated this special proceeding to determine if Cheryl Ball d/b/a Acme Moving Labor (Acme Moving Labor or Company) has engaged, and continues to engage, in business as a common carrier for the transportation of household goods without the required Commission-issued permit.
- 2 Order 01 requires the Company to appear before the Commission at a group classification proceeding on January 25, 2017, at 9 a.m. At the hearing, a company may request a subsequent hearing before an administrative law judge to contest the allegations set forth in the Commission’s complaint. If a company requests a hearing, the Commission sets a date and time for the company to appear and present testimony and evidence that prove its operations are not subject to Commission regulation.
- 3 On January 17, 2017, Acme Moving Labor filed a Notice of Appearance of Counsel, Request for Hearing, and Request to Continue Appearance before ALJ Scheduled for January 25, 2017 (Request for Hearing). In its Request for Hearing, the Company contests the allegations set forth in Order 01 and requests that the hearing on January 25, 2017, be continued or converted to a telephonic prehearing conference. In attached correspondence, the Company also requests to set a hearing date for “telephonic proceedings, as is typical in administrative hearings in Washington state.”

4 On January 17, 2017, Commission staff (Staff) filed a response to the Company's Request for Hearing. Staff supports the Company's request for hearing because any company appearing at the group classification proceeding would be permitted to make the same request. Staff does not support the Company's request to conduct the hearing telephonically.

DISCUSSION AND DECISION

5 We grant Acme Moving Labor's Request for Hearing. As Staff notes in its response, the Company would be entitled to request a hearing to contest the allegations set forth in Order 01 at the group classification proceeding scheduled for January 25, 2017. Rather than appear and make that request, the Company requested a hearing in advance, which conserves both the parties' and the Commission's resources.

6 Pursuant to RCW 34.05.482 and WAC 480-07-610, the Commission concludes that it is appropriate to conduct a brief adjudicative proceeding (BAP) to determine whether Acme Moving Labor has engaged or is engaging in business as a household goods carrier without first obtaining a permit required for such operations from the Commission. The parties should confer and agree on a date and time for the BAP. Commission Staff should notify the Commission of the selected date and time no later than January 24, 2017.

7 The Commission conducts hearings at its headquarters in Olympia, Washington, and does not typically grant requests to appear by telephone unless no other party objects and the requesting party demonstrates exceptional circumstances that prevent it from appearing in person. Here, Staff objects to the Company's request, and the Company has not demonstrated that any exceptional circumstances exist. Accordingly, the Commission requires the parties to appear in person at the BAP.

ORDER

THE COMMISSION ORDERS:

- 8 (1) Cheryl Ball d/b/a Acme Moving Labor's request for a hearing is GRANTED.
- 9 (2) The parties should confer and select a date and time to conduct the brief adjudicative proceeding. Staff should notify the Commission of the parties'

chosen date and time no later than January 24, 2017.

DATED at Olympia, Washington, and effective January 18, 2017.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

RAYNE PEARSON
Administrative Law Judge

**NOTICE TO PARTIES: This is an Interlocutory Order of the Commission.
Administrative review may be available through a petition for review, filed within
10 days of the service of this Order pursuant to *WAC 480-07-810*.**