

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In re Application of	DOCKET TV-160264
RICHARD AND LAURA BELL d/b/a BELL'S RELIABLE MOVING	ORDER 01
For a Permit to Operate as a Motor Carrier of Household Goods	INITIAL ORDER APPROVING APPLICATION FOR PERMANENT AUTHORITY

BACKGROUND

- 1 On March 1, 2016, Richard and Laura Bell d/b/a Bell's Reliable Moving (Bell's Reliable or Company) filed with the Washington Utilities and Transportation Commission (Commission) an application for provisional and permanent authority to operate as a household goods carrier in the state of Washington (Application) under Revised Code of Washington (RCW) 81.80 and Washington Administrative Code (WAC) 480-15. Richard Bell, the Company's owner, signed the Application.
- 2 On March 15, 2016, the Commission issued a Notice of Intent to Deny Application for Permanent Authority and Notice of Opportunity for Hearing (Notice) setting forth Commission staff's (Staff) allegations based on its review and investigation of the Application. Staff alleges that Mr. Bell has an extensive criminal history that includes felony convictions in 2009 for assault-2 deadly weapon; assault-3 bodily harm; assault-2 strangulation; harassment-previous conviction or death threat; harassment-previous conviction/death threat penalty; and a misdemeanor conviction for obstructing a law enforcement officer. Staff further alleges that Mr. Bell has convictions in 2007 for burglarly-2, criminal trespass-1, and assault-3. The Notice provided Bell's Reliable the opportunity to request a hearing to contest these allegations by March 30, 2016.
- 3 On March 28, 2016, Bell's Reliable filed with the Commission a Request for Hearing. The Commission noticed the matter as a brief adjudicative proceeding and convened an evidentiary hearing before Administrative Law Judge Rayne Pearson on June 2, 2016.
- 4 At the hearing, Staff presented documentary evidence and the testimony of licensing services manager Suzanne Stillwell. Mr. Bell testified for the Company.
- 5 Staff explained in its opening statement that it believes the Company's Application should be denied because the nature and extent of Mr. Bell's criminal history could potentially interfere with the proper operation of a household goods company.

- 6 Mr. Bell disputes the accuracy of Staff's allegations related to his prior convictions. Mr. Bell acknowledges that he was convicted of assault-3 bodily harm and harassment-previous conviction or death threat in 2009, and obstructing a law enforcement officer in 2008, but claims he was not convicted of the other charges listed in the Notice. Staff conceded at hearing that Mr. Bell's Washington Access to Criminal History report supports Mr. Bell's testimony, and that the Notice erroneously includes six additional convictions.
- 7 Mr. Bell, who is now 26, testified that the assault-3 bodily harm and harassment-previous conviction or death threat convictions arose from a single incident that occurred when he was 19. Mr. Bell, who was intoxicated, got into a physical altercation with his biological mother, which culminated in his arrest. As he was getting into the police officer's vehicle, he yelled "I'm going to kill you!" at his biological mother. Mr. Bell also explained that the 2008 misdemeanor conviction for obstructing a law enforcement officer arose from an incident where he was intoxicated and failed to follow a police officer's instructions.
- 8 Mr. Bell testified that he is a recovering alcoholic, and has now been clean and sober for more than five years. Following his arrest in 2009, Mr. Bell served 90 days in county jail, completed both inpatient and outpatient treatment for alcohol addiction, completed nine months of anger management treatment, completed six months of domestic violence treatment, and completed two years of community custody without incident. Mr. Bell notes that he is married with three children, has completely turned his life around, and has not gotten into any legal trouble since his arrest almost seven years ago.
- 9 Mr. Bell explained that he has previous experience working for a permitted household goods moving company, that he has saved money for more than three years to start his business, and that he has purchased all of the proper equipment and moving blankets. Mr. Bell further testified that he completed an accounting course at a local community college to assist him with payroll and bookkeeping.
- 10 Ms. Stillwell testified that, despite discovering at hearing that Mr. Bell's criminal history includes only three convictions – not nine – and learning about the circumstances surrounding the convictions and the extent of Mr. Bell's rehabilitation, Staff remains opposed to granting the Company's Application. Ms. Stillwell testified that the nature of the crimes for which Mr. Bell was arrested, but not convicted, also support Staff's recommendation.¹

¹ Stillwell, TR 27:21-28:2.

11 Brett P. Shearer, Assistant Attorney General, Olympia, Washington, represents Commission Staff (Staff).² Richard Bell, *pro se*, Spokane Valley, Washington, represents Bell's Reliable.

DISCUSSION AND DECISION

12 WAC 480-15-302 and -305 set out the various criteria for obtaining provisional or permanent authority to operate as a household goods company. As relevant to this matter, the rules explain that the Commission may deny an application when an applicant has been convicted of a crime involving theft, burglary, assault, sexual misconduct, identity theft, false statements, or the manufacture, sale, or distribution of a controlled substance more than five years prior to the date of the application and the Commission determines that the nature or extent of the crime(s) will likely interfere with the proper operation of a household goods moving company.³

13 As a preliminary matter, we find that Mr. Bell's 2008 conviction for obstructing a law enforcement officer falls outside the scope of WAC 480-15-302 and -305. Accordingly, we limit our analysis to Mr. Bell's 2009 convictions for assault-3 bodily harm and harassment-previous conviction or death threat. We find that those convictions, on their face as well as pursuant to Mr. Bell's description of the underlying conduct and his post-conviction activities, are not likely to interfere with the proper operation of a household goods moving company.

14 There are two previous cases in which the Commission denied an application for household goods authority based on crimes committed by an applicant more than five years prior to the date of application.⁴ In both of those cases, the applicants committed

2 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.

3 WAC 480-15-302(8) and WAC 480-15-305(2).

4 See *In the Matter of the Application of Ivan Ingram d/b/a AA Eagle Relocation Service for a Permit to Operate as a Motor Carrier of Household Goods*, Docket TV-120721, Order 01 (December 21, 2012). In *AA Eagle Relocation Service*, the company's owner, Ivan Ingram, had an extensive criminal history that included 22 felony convictions for multiple crimes, including theft, identity theft, and possession of stolen property. While the Commission recognized in its decision that Mr. Ingram had made significant progress toward personal rehabilitation, the administrative law judge was unable to determine with an acceptable level of certainty that Mr. Ingram was sufficiently trustworthy to be granted a household goods permit. The Commission balanced the length of Mr. Ingram's criminal history – 12 years – with the length of time he had been in the community since his release from prison – three years – and concluded that it would not be in the public interest to issue a permit to Mr. Ingram until a more appreciable length of time had passed without incident.

far more egregious crimes than those at issue here. Mr. Bell's assault and harassment convictions arose from a single incident that occurred more than six years ago. Following his convictions, Mr. Bell undertook extensive rehabilitation efforts and has not reoffended. This set of facts fails to support Staff's recommendation to deny the Application.

- 15 WAC 480-15-302(8)(b) is not intended to permanently bar applicants with criminal convictions from obtaining a household goods permit. Rather, the rule allows the Commission to exercise its discretion to protect the public interest in those cases where the nature of the crime is particularly egregious or an applicant's criminal history is particularly extensive. Neither the nature nor the extent of Mr. Bell's convictions warrant a finding that he currently poses a risk to the public. Accordingly, we approve Bell's Reliable's Application for permanent authority to conduct intrastate moves within the state of Washington.

FINDINGS AND CONCLUSIONS

- 16 (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.
- 17 (2) On March 15, 2016, the Commission issued a Notice to Intent to Deny Application for Permanent Authority. The Notice contains factual errors about Richard Bell's criminal history.
- 18 (3) Mr. Bell was convicted of "obstruction of a law enforcement officer" in 2008, and "assault-3 bodily harm" and "harassment-previous conviction or death threat" in 2009.
- 19 (4) Following his 2009 convictions, Mr. Bell successfully completed inpatient and outpatient treatment for alcohol addiction, two years of probation, anger

See also In Re Application of Five Stars Moving & Storage, LLC For a Permit to Operate as a Motor Carrier of Household Goods, Docket TV-150223, Order 02 (July 23, 2015). In Five Stars Moving & Storage, the application was filed in 2015 and evaluated under the Commission's current rules. The owner of Five Stars Moving & Storage, LLC, Billy Trick, was convicted of two counts of first degree child molestation in 1999 for sexually assaulting two seven-year old girls. In addition, Mr. Trick repeatedly violated the law following his release from prison in 2004 and was dishonest with the Commission on two occasions. The administrative law judge in Five Stars Moving & Storage determined that these factors, coupled with the prospect of Mr. Trick coming into contact with minor children while performing household goods moves, required the Commission to find that granting the application would not be in the public interest.

management treatment, and domestic violence treatment. Mr. Bell has not reoffended since his 2009 convictions.

- 20 (5) In light of Mr. Bell's rehabilitation efforts and his demonstrated time in the community without reoffending, the nature and extent of Mr. Bell's criminal convictions are not likely to interfere with the proper operations of a household goods moving company.
- 21 (6) The Commission should approve Bell's Reliable's Application for permanent authority to operate as a household goods carrier in the state of Washington.

ORDER

THE COMMISSION ORDERS THAT:

- 22 (1) The Application filed by Richard and Laura Bell d/b/a Bell's Reliable Moving on March 1, 2016, for provisional and permanent authority to operate as a household goods carrier in the state of Washington is APPROVED.
- 23 (2) Staff is directed to issue a provisional household goods permit to Richard and Laura Bell d/b/a Bell's Reliable Moving in accordance with WAC 480-15-302.

DATED at Olympia, Washington, and effective June 13, 2016.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

RAYNE PEARSON
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 **seven (7)** copies of any Petition or Answer must be filed by mail delivery to:

Attn: Steven V. King, Acting Executive Director and Secretary
Washington Utilities and Transportation Commission
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