

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In re Application of

PAUL JAMES ACKERMAN d/b/a
PAUL THE MOVER,

for a permit to operate as a motor carrier
of household goods.

DOCKET TV-230466

ORDER 01

DENYING APPLICATION
FOR PERMANENT
AUTHORITY; GRANTING
PROVISIONAL AUTHORITY
SUBJECT TO CONDITION

BACKGROUND

- 1 On June 9, 2023, Paul James Akerman d/b/a/ Paul the Mover (Akerman or Applicant) filed with the Washington Utilities and Transportation Commission (Commission) an application for authority to operate as a household goods carrier in the state of Washington (Application).¹ The Application lists Paul James Akerman as owner.
- 2 On June 29, 2023, the Commission issued a Notice of Intent to Deny Application for Permanent Authority and Notice of Opportunity for Hearing (Notice) in this matter, after its review and investigation of the Application.² Specifically, based on Commission Staff's (Staff) review and investigation, the Commission discovered that the Applicant's owner, Paul James Akerman, has a criminal history, including multiple convictions for third degree theft and forgery. The Notice provided Paul the Mover the opportunity to request a hearing to contest the factual allegations by July 14, 2023.³
- 3 On July 6, 2023, Paul the Mover filed a Request for Hearing with the Commission.

¹ TV 230466, *In Re Application of Paul James Akerman d/b/a Paul the Mover, for a Permit to Operate As a Motor Carrier of Household Goods*, Docket TV-230466, Application of Paul James Akerman d/b/a/ Paul the Mover (Application), filed June 9, 2023.

² TV-230466, Notice of Intent to Deny Application for Permanent Authority and Notice of Opportunity for Hearing, issued June 29, 2023.

³ TV-230466, Request for Hearing of Paul James Akerman d/b/a/ Paul the Mover, issued June 29, 2023.

- 4 On August 15, 2023, pursuant to RCW 34.05.482 and WAC 480-07-610, the Commission convened a brief adjudicative proceeding before administrative law judge, James E. Brown II, to determine whether Akerman’s Application for permanent authority should be denied due to the concerns raised after Staff’s review and investigation of the Application.
- 5 At the brief adjudicative proceeding, Staff presented the testimony of Patrick Remfrey, Licensing Service Manager in Transportation Safety with the Commission. Paul James Akerman appeared pro se, and testified on his own behalf. No other witnesses testified on behalf of the Applicant.
- 6 Remfrey testified about the application process and the requirements an applicant had to meet in order to receive permanent authority as a household goods carrier in Washington State. According to Staff, these requirements include, among other things: the “need to provide evidence of compliance with state tax, labor, employment, business, and vehicle licensing laws and rules; as well as providing insurance filings, complete industry training, and pass a criminal background check.”⁴
- 7 Regarding the application process, Remfrey also testified that: “upon successful operation for at least six months, if the applicant passes a motor carrier safety inspection and has completed the required annual reporting, as well as paid any regulatory fees and has no open consumer protection investigations, then permanent authority will be granted.”⁵
- 8 After detailing the criteria for Commission approval for an application for permanent authority, Remfrey testified about what he discovered when he conducted criminal background check, pursuant to WAC 480-15-305. Specifically, Remfrey testified that he found numerous convictions and adverse findings between 2001 and 2020, relating to theft, forgery, arson, assault, and possession of controlled substances.⁶ Staff averred that the nature of these crimes, as well as the long-documented history of criminal activity are the types of crimes that a customer would be vulnerable to and that would likely interfere with the proper operation of a household goods moving company.⁷ For these reasons,

⁴ Remfrey, TR. 10:5-10; *See also* RCW 81.80.070 and WAC 480-15-305. WAC 480-15-186 requires an applicant’s completion of the permit application.

⁵ Remfrey, TR. at p. 10, lines 11-16; *See also* RCW 81.80.070, RCW 81.80.075 and WAC 480-15-305.

⁶ Remfrey, TR. at p. 10, lines 19-22.

⁷ Remfrey, TR. at p. 11, lines 1-5, lines 12-15.

Staff closed their testimony by recommending that the Commission deny Akerman's application for permanent authority.⁸

- 9 In support of its recommendation, Staff offered into evidence a Comprehensive Report and Washington State Patrol WATCH Report, marked as Exhibits PR-1 and PR-2, respectively.
- 10 Turning to the Applicant and his testimony, Akerman testified and provided explanations for his criminal activity. With regard to the check forgery conviction, the Applicant testified that he took an Alford plea based on the prosecutor having sufficient evidence to place the charge and likely get a conviction based on that charge.⁹ Akerman also detailed the nature of his assault conviction, which he alleged was due to a domestic dispute with his former stepson. According to the Applicant, he pushed his stepson during the dispute, resulting in his stepson cutting a finger during the fall.¹⁰ The Applicant alleged that, otherwise, he has never been violent and currently gets along with his former stepson.¹¹ The other conviction Akerman testified about is a conviction for solicitation and attempt to solicit. Akerman claimed that he was pulled over for busted taillight and drugs were found in his vehicle. Akerman further averred that the drugs were not his and that he accepted the charges because there was no jail time involved.¹²
- 11 Additionally, Akerman provided testimony detailing his experience in the moving industry. The Applicant alleged that he has been in the moving industry for 20 years, and never had an accident in a commercial vehicle. Akerman testified how he has taken steps to change his life, such as pursuing a two-year degree.¹³ The Applicant did admit to some additional crimes, related to theft as well as arson.¹⁴ The Applicant also admitted to engaging in substance abuse. Akerman does claim to be clean and sober, currently.¹⁵

⁸ Remfrey, TR. at p. 11, lines 9-10.

⁹ Akerman, TR. at p. 13, lines 17-22.

¹⁰ Akerman, TR. at pgs. 13, lines 24-25 to 14, lines 1-9.

¹¹ Akerman, TR. at p. 14, lines 10-15.

¹² Akerman, TR. at pgs. 15, lines 23-25 to 16, lines 1-12.

¹³ Akerman, TR. at pgs. 14, line 25, 15, lines 1-3.

¹⁴ Akerman, TR. at pgs. 19, lines 6-16 and 20, line 25 to 21, lines 1-9.

¹⁵ Akerman, TR. at pgs. 15, lines 18-22 and 19, lines 18-20.

- 12 Staff declined to cross and the Applicant's exhibits, PA-1 through PA-4 were admitted into evidence without objection from Staff.¹⁶
- 13 Akerman, owner, appears *pro se*. Jackie Neira, Assistant Attorney General, represents Staff.

DISCUSSION

- 14 Washington law has established comprehensive standards for the application and receipt of a household goods carrier permit. To start, RCW 81.80.070 states that a permit is required to operate as a household goods carrier, that the Commission shall issue a permit to an applicant demonstrating, among other things, their fitness and ability to provide service in compliance with the Commission's rules and regulations. In addition, RCW 81.80.075 sets forth the consequences for any person operating without a permit. Chapter 480-15, specifically WAC 480-15-302, sets forth the criteria for the Commission to issue a permit granting provisional authority, while WAC 480-15-305 sets forth the criteria for the Commission to issue a permit granting permanent authority. In sum, these provisions require an applicant to: provide evidence of compliance with state tax, labor, employment, business, and vehicle licensing laws and rules; as well as providing insurance filings; complete industry training; and pass a criminal background check.¹⁷ WAC 480-15-305 also provides that upon completion of the provisional period of not less than six (6) months and not more than eighteen (18) months, the Commission will grant permanent authority to an applicant.¹⁸ The provisions in RCW 81.80.070, RCW 81.80.075, WAC 480-15-302 and WAC 480-15-305, as well as others in the RCW and WAC, provide the regulatory framework for household goods carriers to be permitted and to operate in state of Washington.
- 15 With regard to Akerman and the submitted application, we have reviewed the Applicant's criminal history, and it certainly gives us pause. In addition, Staff's arguments are well-taken and raise legitimate concerns regarding the Applicant and their criminal history. We note in particular Staff's argument that: "While the crimes may be older, they are still quite relevant when it comes to considering moving the household goods of the public

¹⁶ TV 230466, Admitted Akerman Exhibits are: PA-1, Advisement Report; PA-2, Statement of Support from Pamela Akerman; PA-3, Yelp Review; and PA-4, Moving Photo. These Exhibits were attached to Request for Reconsideration, filed August 10, 2023.

¹⁷ See WAC 480-15-302 and WAC 480-15-305.

¹⁸ See WAC 480-15-305 (1)(b).

around Washington.” This is not a light point that Staff raised in its argument that Akerman’s Application should be denied.¹⁹

- 16 We have also carefully reviewed the Applicant’s testimony, exhibits, and Application. It is disconcerting that although the 2020 attempted solicitation and solicitation conviction was a gross misdemeanor and not a felony, the circumstances call into question the Applicant’s judgment regarding the company they kept leading up to the arrest.²⁰ Also, the matter of the taillight on his personal vehicle being the reason for the Applicant being stopped and later arrested may indicate a lack of diligence that may be reflected in the care and upkeep of a household carrier vehicle and the consumer’s property and goods on board.²¹
- 17 However, we are encouraged by the steps the Applicant has taken to improve his circumstances and to reform. We note Akerman’s academic success in taking courses, particularly the entrepreneurial course which will be potentially helpful in keeping a household goods carrier business compliant with Commission rules and regulations.²² Akerman alleged that he has worked in the moving industry 20 years without an accident. We also took note of the favorable customer review received by Paul James Akerman and his moving team.²³ Further, we took note of the statements in support of Akerman’s Application where a number of potential consumers spoke to the need of another household goods carrier in their area.²⁴ Likewise, we note that the Applicant’s ex-wife, Pamela Akerman Oman (Ms. Oman), also submitted a letter of support asserting that the Applicant has made amends for the forgery, as she was the plaintiff in that matter. Ms. Oman also addressed the issue of the assault conviction involving her son, Akerman’s ex-stepson, and she places the onus for the event on her son and not the Applicant. Ms. Oman adds that the Applicant has never been violent towards her or anyone that she knows of.²⁵
- 18 Upon review of the evidence, we have no choice but to deny Akerman’s application for permanent authority as a household goods carrier. Although many of the convictions are more than 5 years old, they are the type of convictions that are related to the operation of a household goods company. However, we are persuaded by the evidence the Applicant

¹⁹ Remfrey, TR. at pgs. 19, lines 6-16 and 20, line 25 to 21, lines 1-9.

²⁰ Akerman, TR. at p. 16, lines 1-7.

²¹ Akerman, TR. at p. 16, lines 1-7.

²² Akerman, TR. at pgs. 14, line 25, 15, lines 1-3.

²³ TV 230466, PA-3, Yelp Review.

²⁴ TV 230466, Application, Attachments.

²⁵ TV 230466, PA-2, Statement of Support from Pamela Akerman.

presented on his own behalf, which did ease our concerns regarding his criminal convictions. The Applicant has taken rehabilitative steps to address his criminal past, ranging from taking courses that may help improve his ability to operate as a household goods operator as well as demonstrating accountability for those past criminal acts.

- 19 Consequently, based on the Applicant's rehabilitative efforts, we will grant Akerman provisional authority as a household goods carrier. As was outlined previously in this order, Chapter 480-15 contains the governing provisions for household goods carriers, and the Household Goods Application informs Applicants that they are subject to and must comply with its requirements. Specifically, WAC 480-15-305(1)(b) is very helpful in this particular case. WAC 480-15-305(1)(b) reads:

The applicant has completed a provisional period of not less than six months and not more than eighteen months from the date the provisional permit was issued unless the commission determines that for good cause the provisional period should be extended beyond eighteen months. Good cause may include, among other circumstances, a carrier that has not yet made an intrastate move or a carrier that has not yet achieved a satisfactory safety rating but is making substantial progress toward a satisfactory rating.

Although we are granting the Applicant provisional authority, such authority shall include conditions in order to ensure the safe operation of the Applicant as household goods carrier. The first condition is that the provisional period will be extended for 24 months. We believe good cause exists for such an extension, given Akerman's criminal history and record, described throughout this Order. Permanent authority will only be granted if, during this provisional period, the Applicant and Paul James Akerman meet all requirements of WAC 480-15-305 in addition to the conditions of this Order as explained below.

- 20 Additionally, despite the extended provisional period, the Applicant must still complete all of the requirements in WAC 480-15-305 for permanent authority within 18 months of the date of this Order.²⁶
- 21 Regarding the other conditions, household goods moving companies must implement a random alcohol and controlled substances testing program for their drivers.²⁷ Because

²⁶ WAC 480-15-305(3). 18 months is the same time period that any other household goods moving company would have to complete these requirements.

²⁷ See 49 C.F.R. Part 382 and 49 C.F.R. Part 40. See also WAC 480-15-302 (7).

Akerman's past criminal behavior was linked to his drug usage, the Applicant shall implement a random drug and alcohol testing program.²⁸ Also, issuance of provisional authority to the Applicant is conditioned upon Paul James Akerman's inclusion, whether or not he is designated as a driver for the Applicant, in the same random drug and alcohol testing program for the Applicant's drivers. The Applicant must keep records of Paul James Akerman's testing for the duration of the provisional period and must provide them to Staff upon request, even if Paul James Akerman is not actually driving the Applicant's vehicles.

22 This testing will mitigate two of the Commission's concerns. First, it will help ensure that Paul James Akerman does not relapse into drug using behavior which gave rise to him committing the types of crimes that would affect the operation of a household goods moving company. As an aside, we warn the Applicant that any break in Paul James Akerman's sobriety will negatively impact the Commission's evaluation of whether to issue permanent authority, and whether the nature or extent of his past crime(s) is likely to interfere with the proper operation of a household goods moving company. Second, the regular testing and diligent recordkeeping required will demonstrate Akerman's ability and willingness to conform to Commission regulation, as well as Paul James Akerman's ability to responsibly operate a household goods moving company. Paul James Akerman's failure to enroll in the Applicant's random alcohol and controlled substances testing program or the Applicant's failure to keep all required records of Paul James Akerman's testing and provide it to Staff upon request will result in the Commission denying the Company permanent authority to operate under WAC 480-15-305 and cancelling the Company's provisional permit.

23 Finally, during the duration of its provisional period, the Applicant must complete a criminal background check on each person it employs or intends to employ and must keep all records of such criminal background checks. the Applicant also must not employ any person who has "within the past five years, been convicted of any crime involving theft, burglary, assault, sexual misconduct, identity theft, fraud, false statements, or the manufacture, sale, or distribution of a controlled substance,"²⁹ and must not employ any person who:

has been convicted of any crime involving theft, burglary, assault, sexual misconduct, identity theft, fraud, false statements, or the manufacture, sale, or distribution of a controlled substance more

²⁸ The Commission has information on its website for companies seeking to establish a controlled substance and alcohol testing program.
<https://www.utc.wa.gov/regulatedIndustries/transportation/Pages/drugAndAlcoholConsortium.aspx>.

²⁹ WAC 480-15-305(1)(d).

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.³⁰

If the Applicant fails to complete and keep records of a background check for any employee or intended employee, or employs any person with the criminal history explained above, permanent authority to operate under WAC 480-15-305 will be denied and the provisional permit will be cancelled.

24 Therefore, the Commission grants Akerman provisional authority subject to the conditions set forth in paragraph 19 through 23 of this Order.

FINDINGS AND CONCLUSIONS

25 (1) The Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, practices, and accounts of public service companies, including common carriers such as household goods carriers, and has jurisdiction over the parties and subject matter of this proceeding.

26 (2) The Commission has jurisdiction over the subject matter of this proceeding and Paul James Akerman.

27 (3) On June 29, 2023, the Commission issued a Notice of Intent to Deny Application for Permanent Authority and Notice of Opportunity for Hearing in this matter based on its review and investigation of the Application.

28 (4) The Commission granted the Company's request for a hearing and that hearing was held on August 15, 2023.

29 (5) WAC 480-15-305 (1)(d) requires that an applicant has to provide commission staff with evidence that they have completed a criminal background and that the Commission will not grant permanent authority if any employee has, within the past five years, been convicted of any crime involving theft, burglary, assault, sexual misconduct, identity theft, fraud, false statements, or the manufacture, sale, or distribution of a controlled substance.

30 (6) WAC 480-15-305(2) states that the Commission will not grant permanent

³⁰ WAC 480-15-305(2).

authority if an employee has been convicted of any crime involving theft, burglary, assault, sexual misconduct, identity theft, fraud, 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.

- 31 (7) Akerman has admitted to committing and being convicted of attempted solicitation and solicitation, a gross demeanor, within the last 5 years.
- 32 (8) Akerman has admitted to committing and being convicted of the types of crimes listed in WAC 480-15-305(2).
- 33 (9) The Commission denies Akerman's Application for Permanent Authority pursuant to WAC 480-15-305(2).
- 34 (10) Pursuant to WAC 480-15-305(1)(b), the Commission may extend the provisional period for a provisional permit beyond the eighteen-month threshold if the commission determines that for good cause the provisional period should be extended beyond eighteen months. Good cause may include, among other circumstances, a carrier that has not yet made an intrastate move or a carrier that has not yet achieved a satisfactory safety rating but is making substantial progress toward a satisfactory rating.
- 35 (11) The Applicant has taken rehabilitative steps in order to address his criminal history.
- 36 (12) The Commission finds there is good cause to extend the provisional period for the Applicant's provisional permit.
- 37 (13) The Commission grants the Applicant provisional authority as a household goods operator in the state of Washington, subject to conditions set forth in paragraphs 19 through 23 of this Order.

ORDER

THE COMMISSION ORDERS That:

- 38 (1) Paul James Akerman d/b/a/ Paul the Mover's Application for Permanent Authority is DENIED.
- 39 (2) Paul James Akerman d/b/a/ Paul the Mover is granted provisional authority as a household goods carrier in the state of Washington subject to the conditions set forth in Paragraphs 19 through 23 of this Order:

- (a) Paul James Akerman d/b/a/ Paul the Mover's provisional period shall be for 24 months from the date of issuance of the provisional permit;
- (b) Paul James Akerman d/b/a/ Paul the Mover must complete all requirements for permanent authority within 18 months of the date of this Order;
- (c) Paul James Akerman d/b/a/ Paul the Mover must implement a random alcohol and controlled substances testing program for its drivers and, effective immediately and for the duration of its provisional period, Paul James Akerman must be enrolled in that program;
- (d) For the duration of its provisional period, Paul James Akerman d/b/a/ Paul the Mover must maintain and provide to Staff upon request all records of Paul James Akerman's participation in its random alcohol and controlled substances testing program;
- (e) For the duration of its provisional period, Paul James Akerman d/b/a/ Paul the Mover must maintain and provide to Staff upon request all records of Paul James Akerman's participation in its random alcohol and controlled substances testing program;
- (f) For the duration of its provisional period, Paul James Akerman d/b/a/ Paul the Mover must not employ any person with criminal history as explained in Paragraph 23.

40 (3) Staff is directed to issue a provisional household goods permit to Paul James Akerman d/b/a/ Paul the Mover in accordance with WAC 480-15-302.

DATED at Lacey, Washington, and effective September 22, 2023.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ James E. Brown II

James E. Brown, II
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 480-07-610(7) provides that any party to this proceeding has twenty-one (21) days after the entry of this Initial Order to file a *Petition for Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-610(7)(b). WAC 480-07-610(7)(c) states that any party may file a *Response* to a Petition for review within seven (7) 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.

Any Petition or Response must be electronically filed through the Commission's web portal as required by WAC 480-07-140(5). Any Petition or Response filed must also be electronically served on each party of record as required by WAC 480-07-140(1)(b).