



Investigation Report

Clutter Inc.

TV-200432

Jacque Hawkins-Jones
Compliance Investigations

February 2021

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PURPOSE, SCOPE, AND AUTHORITY

Purpose

Clutter Inc. (Clutter or Company) holds a permit issued by the Washington Utilities and Transportation Commission (commission) to transport household goods within the state of Washington. The purpose of this investigation is to determine the company's compliance with Washington state laws and commission rules.

Scope

The scope of this investigation focuses on Clutter's business practices of intrastate transportation of household goods and small goods transportation and storage in the state of Washington from June 16, 2019, through June 30, 2019.

Authority

Staff undertakes this investigation pursuant to Revised Code of Washington (RCW) 81.04.070, RCW 81.80.130, and RCW 81.80.330. Washington Administrative Code (WAC) 480-15-010 gives the commission authority to regulate companies that transport household goods within the state of Washington.

Staff

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EXECUTIVE SUMMARY

This investigation was prompted by an informal consumer complaint related to a household goods move and Clutter's business practices. The informal complaint found that Clutter did not charge the customer according to the commission-approved tariff rates outlined in Household Goods Tariff 15-C and was company upheld with violations and arrangements.¹ Staff also investigated the Company's business practices of its small goods transportation and storage moves.

Staff reviewed 98 household goods moves and 111 small goods transportation and storage moves conducted by Clutter from June 16, 2019, through June 30, 2019. Staff finds Clutter in violation of the following state laws, commission rules, and Household Goods Tariff 15-C.

- Failure to charge the minimum tariffed rate in violation of WAC 480-15-490 and Tariff 15-C, Item 230(6).
- Failure to charge the required minimum hours in violation of WAC 480-15-490 and Tariff 15-C, Item 230(7).
- Failure to properly complete the bills of lading in violation of WAC 480-15-710 and Tariff 15-C, Item 95.
- Failure to completely and accurately fill out the estimate form in violation of WAC 480-15-630 and Tariff 15-C, Item 85.
- Failure to properly apply tariff rules related to limitations of goods in small goods transportation and storage moves in violation of WAC 480-15-490 and Tariff 15-C, Item 102.

Penalty Recommendations

Staff recommends the commission issue a formal complaint against the Company and find that the Company committed 390 violations of commission laws and rules. Staff also recommends a penalty of up to \$117,400 for the following violations:

- Up to \$100 for each of the 93 violations of failing to properly charge consumers the minimum tariffed rate in violation of WAC 480-15-490 and Tariff 15-C, Item 230(6).
- Up to \$100 for each of the 33 violations of failing to bill the required minimum hours for weekday, weekend moves or state-recognized holidays in violation of WAC 480-15-490 and Tariff 15-C, Item 230(7).
- Up to \$500 for each of the 98 violations of failing to properly complete the bills of lading submitted in violation of WAC 480-15-710 and Tariff 15-C, Item 95.
- Up to \$500 for each of the 98 violations of failing to completely and accurately fill out the estimate form in violation of WAC 480-15-630 and Tariff 15-C, Item 85.
- Up to \$100 for each of the 68 violations of failing to properly follow the goods limitations required in small goods transportation and storage moves in violation of WAC 480-15-490 and Tariff 15-C, Item 102.

¹ A summary of complaint CAS-25543-C4C7G2 is attached as Appendix A. A copy of the entire complaint is available upon request.

Technical Assistance Recommendation

Small goods transportation and storage moves have specific contract terms and conditions required by WAC 480-15-490 and Tariff 15-C, Item 102(5) and (8). Staff found the documents for small goods storage and transportation moves contained contract terms and conditions for an hourly rated move, not for a small goods storage and transportation move.

Staff views this investigation as the company's technical assistance to ensure the contract terms and condition requirements of WAC 480-15-490 and Tariff 15-C, Item 102(5) and (8) be used for small goods storage and transportation moves. If future violations are found, staff may recommend penalties or take other enforcement action.

Additionally, staff is unable to verify if Clutter provided written acknowledgement of customer complaints, advised its customers of the Commission, or properly investigated and reported its findings to the customers, as required in WAC 480-15-810, because Clutter failed to provide all documents as requested.

Staff is concerned with the overall number of complaints and claims filed by Clutter's customers and views this investigation as the company's technical assistance regarding customer complaints and claims and requirements of WAC 480-15-810.

BACKGROUND

Company Background

On Feb. 15, 2016, Brian Thomas, Ari Mir, and Omar Hamoui registered as a corporation with the Washington Secretary of State, under the name of Clutter Inc.² Clutter Inc. was granted temporary household goods authority on Jan. 20, 2017, and issued permit number THG067494. Commission records show that two company representatives participated in the Commission’s household goods training in November 2017 and August 2019.³ The company performs small goods transportation and storage moves and household goods moves. Commission records show Brian Thomas operates the company as President and Ari Mir and Omar Hamoui are listed as officers. The company’s physical address on file with the commission is 3526 Hayden Ave., Culver City, CA 90232.

Clutter’s annual revenue, as reflected in its most recent annual reports filed with the commission, is as follows:

Reporting Year	Date Filed	Revenue
2017	Nov. 27, 2018	\$397,327.00
2018	May 8, 2019	\$1,383,813.00
2019	Aug. 3, 2020	\$1,505,619.00

Clutter offers packing and moving services when storing customer goods. A customer may choose to drop off household goods at a Clutter storage facility, have the Company pick-up household goods curbside, or choose for Clutter employees to come and pack the household goods for transportation to the Company’s storage facility.

Staff found the Company charges customer’s a monthly rate dependent on the size of the storage unit. However, staff compared the cost of Clutter’s storage unit to other local self-storage facilities and found Clutter charged higher storage rates.⁴ Staff believes these increased storage prices is how Clutter may have recovered any costs associated with any “free” transportation services it may have historically offered.

Clutter now advertises household goods moving services that do not include storage.

Compliance History

Since 2017, when Clutter was granted temporary household goods authority, the following violations have been documented:

Penalty Assessments

Dec. 4, 2018, Clutter was assessed a \$1,000 penalty for failure to timely file an annual report

² A copy of the Secretary of State record is attached as Appendix B.

³ A copy of the Commission household goods training sign-in sheet for November 2017 and August 2019 are attached as Appendix C.

⁴ A copy of a quote from Clutter and three local self-storage facilities is attached as Appendix D.

and pay regulatory fees for 2017, per RCW 81.04.080. The company filed its report on Nov. 27, 2018, and as of the date of this report, has failed to pay the penalty.

June 14, 2019, Clutter was assessed a \$250 penalty for failure to timely file an annual report and pay regulatory fees for 2018, per RCW 81.04.080. The company filed its report on May 8, 2019, and paid the full penalty on July 12, 2019.

July 2018 Consumer Complaint CAS-23433-M8W1V9

On July 31, 2018, a consumer filed an informal complaint against Clutter related to a household goods move.⁵ This complaint was consumer upheld. At the conclusion of the complaint investigation, staff cited three rule violations and provided technical assistance for each, as follows:

WAC 480-15-620 / Tariff 15-C, Item 85(1)	1 violation: Failure to provide a copy of the commission consumer guide.
WAC 480-15-630 / Tariff 15-C, Item 85(2)	1 violation: Failure to provide an estimate.
WAC 480-15-710(2) / Tariff 15-C, Item 95(1)	1 violation: Failure to issue a bill of lading.

During the complaint investigation, Clutter stated that it has a copy of WAC 480-15 and Tariff 15-C and has seen copies of the table of measurements, estimates, and bill of lading template forms.

August 2019 Consumer Complaint CAS-25543-C4C7G2

On Aug. 26, 2019, a consumer filed an informal complaint against Clutter regarding a household goods move.⁶ At the conclusion of the complaint investigation, staff cited five rule violations and provided technical assistance for each, as follows:

WAC 480-15-890(1)	1 violation: Failure to provide initial requested documentation within required timeframe.
WAC 480-15-890(2)	1 violation: Failure to provide additional requested documentation within required timeframe.
WAC 480-15-490(3)	3 violations: Failure to charge rates in accordance with Tariff 15-C.

August 2020 Consumer Complaint CAS-27207-N1H4F3

On Aug. 13, 2020, a consumer filed an informal complaint against Clutter regarding a household

⁵ A copy of the summary page of the consumer complaint CAS-23433-M8W1V9 is attached as Appendix E. A copy of the entire complaint is available upon request.

⁶ See Appendix A.

goods move.⁷ At the conclusion of the complaint investigation, staff cited ten rule violations and provided technical assistance for each, as follows:

WAC 480-15-490(3)	6 violations: Failure to charge rates in accordance with Tariff 15-C.
WAC 480-15-630 / Tariff 15-C, Item 85(3)	2 violations: Failure to provide signature of company representative in accordance with Tariff 15-C.
WAC 480-15-710(3) / Tariff 15-C, Item 95(1)	2 violations: Failure to provide start, stop and any interruption time for each employee.

⁷ A copy of the summary page of the consumer complaint CAS-27207-N1H4F3 is attached as Appendix F. A copy of the entire complaint is available upon request.

INVESTIGATION

Data Request

On Feb. 27, 2020, staff requested the following records and information from Clutter Inc.⁸

1. For every residential move and small goods transportation and storage performed within the state of Washington from June 1, 2019, through Jan. 31, 2020, please provide all original supporting documents related to each customer's move including, but not limited to, the bill of lading, back of the bill of lading containing the Contract Terms and Conditions of Uniform Household Goods Bill of Lading, estimate, supplemental estimate, inventory records, weight slips, contracts, and all documents related to temporary or permanent storage of the goods. Please note that the commission requires original documents. Photocopies will not be accepted. Your original documents will be returned to you at the conclusion of our review.
2. For every residential move and small goods transportation and storage performed within the state of Washington from June 1, 2019, through Jan. 31, 2020, please provide all original supporting documents related to each customer's storage including, but not limited to, itemized list of items in the shipment, record of condition of each article, dates of all charges, record of all advances or payments made or received, dates the shipments were delivered into and forwarded from the warehouse, records of request for return of household goods, contracts for storage, Contract Terms and Conditions of Uniform Household Goods Small Goods Transportation and Storage Contract, and all documents related to temporary or permanent storage of the goods. Please note that the commission requires original documents. Photocopies will not be accepted. Your original documents will be returned to you at the conclusion of our review.
3. A copy of the company's customer complaint and claims register, listing all complaints and claims received from June 1, 2019, through Jan. 31, 2020, and including all documents related to each complaint and claim.
4. A copy of the criminal background check for every current and former employee and a list of current employees employed within Washington State.

Staff requested Clutter respond by March 11, 2020. The company emailed staff on Feb. 28, 2020, requesting an extension. An extension was granted with a due date of March 25, 2020. The requested documents were received on March 24, 2020.

Clutter provided a customer claims register and settlement and release agreements for claims filed between June 1, 2019, and Jan. 30, 2020. The claims register the company provided included 446 total claims, and settlement and release agreements for 92 customers. The register listed the customer name, claim number, claim status, open and close dates, total number of items damaged or lost, and compensation offered.

⁸ A copy of staff's data request dated Feb. 27, 2020, is attached as Appendix G.
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WAC 480-15-810 provides, in part, that when a company receives a complaint or dispute from a customer it must acknowledge the complaint, investigate promptly, and report the results to the complainant.

Staff reviewed the claims register and found Clutter compensated 272 customers a total of \$276,146.94 between June 1, 2019, and Jan. 31, 2020.

Staff is unable to verify if Clutter provided written acknowledgement of customer complaints, advised its customers of the Commission, or properly investigated and reported its findings to the customers, as required in WAC 480-15-810, because Clutter failed to provide all documents as requested. Clutter said they have additional documents for each claim, including emails and call logs, but chose to only provide the claims register and settlement agreements at the time of the data request.

Staff is concerned with the overall number of complaints and claims filed by Clutter's customers and views this investigation as the company's technical assistance regarding customer complaints and claims and requirements of WAC 480-15-810. If future violations are found, staff may recommend penalties or take other enforcement action.

On June 3, 2020, staff asked Clutter to provide documents for all household goods moves and small goods transportation and storage during the review period of June 16, 2019, through June 30, 2019. On June 26, 2020, Clutter provided move-related documents, including photographs, for 209 moves conducted during the review period.

Staff used the documents and information furnished from this data request to conduct its investigation of the company's business practices. Of the 209 move records submitted, the company identified 98 moves as hourly-rated household goods moves and 111 as small goods transportation and storage.

Hourly-Rated Moves

Tariff Rates

WAC 480-15-490 requires a household goods company to charge customers according to the tariff. Tariff 15-C, Item 230 requires minimum charges for hourly rated moves, including a minimum of one hour for moves performed Monday through Friday between 8:00 a.m. and 5:00 p.m., and four hours for moves performed on a Saturday or Sunday, or state-recognized holidays at the customer's request.

Of the 98 hourly-rated moves reviewed, Clutter incorrectly calculated and charged customers the required minimum hours for weekday hours, weekend hours or state-recognized holidays in 33 instances, in violation of WAC 480-15-490 and Tariff 15-C, Item 230(7).⁹

	DATE	CUSTOMER	HOURS CHARGED ON BILL OF LADING
1.	Sunday, June 16, 2019	Oldham	1 hour and 46 minutes
2.	Sunday, June 16, 2019	Wheeler	2 hours and 33 minutes
3.	Tuesday, June 18, 2019	Arteaga	51 minutes
4.	Wednesday, June 19, 2019	Eskridge	21 minutes
5.	Wednesday, June 19, 2019	Davis	55 minutes
6.	Thursday, June 20, 2019	Tveten	15 minutes
7.	Thursday, June 20, 2019	Kidik	41 minutes
8.	Saturday, June 22, 2019	Denison	2 hours and 6 minutes
9.	Saturday, June 22, 2019	Wang	2 hours and 31 minutes
10	Saturday, June 22, 2019	Ford	38 minutes
11	Saturday, June 22, 2019	Storer	2 hours
12	Saturday, June 22, 2019	Howard	2 hours and 4 minutes
13	Sunday, June 23, 2019	Kelley	1 hour and 53 minutes
14	Sunday, June 23, 2019	Chow-Greiner	2 hours and 50 minutes
15	Sunday, June 23, 2019	Peredo	1 hour and 55 minutes
16	Sunday, June 23, 2019	Myles	1 hour and 19 minutes
17	Sunday, June 23, 2019	Kaperak	28 minutes
18	Sunday, June 23, 2019	Rothlisberger	1 hour and 2 minutes
19	Sunday, June 23, 2019	Khazada	1 hour and 35 minutes
20	Sunday, June 23, 2019	Tveten	7 minutes
21	Monday, June 24, 2019	McFarland	52 minutes
22	Monday, June 24, 2019	Jang	9 minutes
23	Saturday, June 29, 2019	Hutchens	3 hours and 32 minutes
24	Saturday, June 29, 2019	Birge	2 hours and 2 minutes
25	Saturday, June 29, 2019	Speer	2 hours and 31 minutes

⁹ Examples of Bills of Lading documented in Clutter's customer move records, are documented as Appendix H. Clutter, Inc. - 2021 Investigative Report

26	Saturday, June 29, 2019	Karelas	3 hours and 36 minutes
27	Saturday, June 29, 2019	Meyer	39 minutes
28	Saturday, June 29, 2019	Phillips	3 hours and 2 minutes
29	Saturday, June 29, 2019	Gullette	1 hour 17 minutes
30	Sunday, June 30, 2019	Anh	55 minutes
31	Sunday, June 30, 2019	Selden	13 minutes
32	Sunday, June 30, 2019	Iyer	36 minutes
33	Sunday, June 30, 2019	Werre	37 minutes

In reviewing hourly-moves, staff found eight bills of lading charging the customer amounts below the minimum tariffed rate, in violation of WAC 480-15-490 and Tariff 15-C, Item 230(6)¹⁰.

	Date	Customer	Allowable Tariff Hourly Rates	Rate Charged
1	June 20, 2019	Evanson-Issac	Two movers less than three hours \$69.89-\$186.96	\$65 per hour
2	June 21, 2019	Lund	One mover less than three hours \$39.20-\$99.92	\$35 per hour
3	June 21, 2019	Roof	Two movers less than three hours \$69.89-\$186.96	\$35 per hour
4	June 24, 2019	Childs	Four movers more than three hours \$135.12-\$361.46	\$65 per hour
5	June 29, 2019	Phillips	Two movers more than three hours \$67.56-\$180.73	\$65 per hour
6	June 30, 2019	Selden	Two movers less than three hours \$69.89-\$186.96	\$65 per hour
7	June 30, 2019	Werre	Two movers less than three hours \$69.89-\$186.96	\$35 per hour
8	June 30, 2019	Anh	Two movers less than three hours \$69.89-\$186.96	\$65 per hour

Findings

Clutter failed to properly charge the required minimum hours for weekdays or weekends in 33 of the 98 household goods moves reviewed in violation of WAC 480-15-490 and Tariff 15-C, Item 230(7).

Also of the 98 moves reviewed, the company failed to properly charge the correct tariff rate in 93 household goods moves in violation of WAC 480-15-490 and Tariff 15-C, Item 230(6); eight moves were charged below the minimum tariffed rate and 85 moves did not indicate the minimum tariff rate charged on the bill of lading, therefore Staff was unable to determine if the correct tariff rate was charged.

Recommendations

Staff recommends a penalty of up to \$100 for each of the 33 moves where Clutter failed to charge

¹⁰ Examples of Bills of Lading documented in Clutter's customer move records, are documented as Appendix I.

the minimum hourly rates for weekdays and weekends in accordance with Tariff 15-C in violation of WAC 480-15-490 and Tariff 15-C, Item 230.

Additionally, staff recommends a penalty of up to \$100 for each of the 93 violations where Clutter failed to charge the tariffed rate, in violation of WAC 480-15-490 and Tariff 15-C, Item 230(6).

Bills of Lading

WAC 480-15-710(3) requires a household goods company to issue a properly completed bill of lading for every move and include all the requirements listed in Tariff 15-C, Item 95. The bill of lading provides an itemized overview of all the charges related to a given move and explains when and how a carrier is required to release a shipment and extend credit. The back of the bill of lading discloses specific language regarding the terms and conditions of the contract.

This information is required to ensure that consumers are aware of their rights and obligations under the law.

Each of the 98 bills of lading for hourly rated moves staff reviewed contained one or more of the following violations of state laws, commission rules, and Tariff 15-C:

- Failure to issue a bill of lading for a household goods move in violation of Tariff 15-C, Item 95(1).
- Failure to list the start, stop, end time of the move for each employee in violation of Tariff 15-C, Item 95(1)(m).
- Failure to have the consumer initial its preference for valuation option in violation of WAC 480-15-710 and Tariff 15-C, Item 95(1)(k).

Findings

Failure to issue a bill of lading for household goods moves is a repeat violation. Clutter has received technical assistance related to bills of lading in one previous informal complaint against the company and continued to receive technical assistance in the two additional informal complaints outside the review period in this report. The failure to complete the bills of lading demonstrates that Clutter has not complied with the previous technical assistance.

Additionally, staff found all recorded employee hours on the 98 moves reviewed were not rounded to the nearest increment of 15 minutes, in violation of WAC 480-15-710 and Tariff 15-C, Item 230(2).

Recommendations

Clutter previously received technical assistance for not providing customers with a completed bill of lading. Staff cited one violation for each of the separate 98 bills of lading which contained missing or incorrect information in violation of WAC 480-15-710(3) and Tariff 15-C, Item 95. Staff recommends a penalty of up to \$500 for each of the 98 repeat violations, for a total penalty of up to \$49,000.

Estimates

WAC 480-15-630 requires a household goods company to issue an estimate prior to every move

and requires that the estimate include all the elements listed in Tariff 15-C, Item 85. Estimates are intended to protect consumers from deceptive practices and hidden charges. Of the 98 moves reviewed, staff found all estimates to be in violation of state laws and commission rules.

Staff found Clutter had one or more of the following violations within these 98 estimates:

- Failure to charge customers the minimum tariffed rate in violation of WAC 480-15-630 and Tariff 15-C, Item 230(6).
- Failure to charge customers the four-hour minimum for weekend rates or state-recognized holidays in violation of WAC 480-15-630 and Tariff 15-C, Item 230(7)(a)(ii).
- Failure to correctly fill out the Table of Measurements (cube sheet) in violation of WAC 480-15-630 and Tariff 15-C, Item 85(3)(g).
- Failure to have the customer initial the valuation option in violation of WAC 480-15-630 and Tariff 15-C, Item 85(3)(m).
- Failure to list the forms of payment accepted in violation of WAC 480-15-630 and Tariff 15-C, Item 85(3)(r).
- Failure to ensure the carrier and the customer signed the estimate in violation of WAC 480-15-630 and Tariff 15-C, Item 85(3)(t).

Findings

Staff finds 98 incomplete estimates in violation of WAC 480-15-630 and Tariff 15-C, Item 85. This is a repeat violation.

Recommendations

Clutter previously received technical assistance for not providing customers with a completed bill of lading. Staff cited one violation for each of the separate 98 estimates which contained missing or incorrect information in violation of WAC 480-15-630 and Tariff 15-C, Item 85. Staff recommends a penalty of up to \$500 for each of the 98 repeat violations, for a total penalty of up to \$49,000.

Small Goods Transportation and Storage

Tariff 15-C defines small goods transportation and storage as the transportation of household goods by a carrier from a customer's residence to a warehouse, storage unit, or other storage facility owned or rented by the carrier with the intent to later transport the goods back to the customer's residence.

WAC 480-15-490 requires a household goods company to bill charges according to the tariff. Tariff 15-C, Item 102 requires carriers engaged in small goods transportation and storage to comply with all provisions of Tariff 15-C unless otherwise noted. Small goods transportation and storage moves are exempt from the rates, rules, and charges noted in the tariff. The tariff also limits a small goods transportation and storage service to a shipment of 25 household goods articles or a maximum of 500 pounds from each customer per week. The tariff defines a household goods article as a box that can reasonably be carried by one person or an unboxed article that can reasonably be carried by one person.

Staff reviewed 111 moves identified by the Company as small goods transportation and storage.

Of those 111 moves, staff found 68 moves violated WAC 480-15-490 and Tariff 15-C, Item 102(2). Within those 68 moves, staff found 270 household good articles that could not be reasonably carried by one person or an unboxed household good that could reasonably be carried by one person, including a wood armoire, king size mattress, a sofa, and a grandfather clock.¹¹ Additionally, within those 68 moves, 16 moves were more than the 25-article maximum.

The Company failed to ensure the 68 moves met the specific limitations in accordance with Tariff 15-C, Item 102, regarding small goods transportation and storage. Because all 68 moves either violated the maximum item limit or included items that could not be reasonably carried by one person, or both, the 68 moves should have been classified as an hourly-rated move and followed the applicable tariff rules.

In addition, staff found Clutter provided the contract terms and conditions for an hourly-rated move rather than the terms and conditions for a small goods transportation and storage move. Staff recommends the Company remove the incorrect language and update its forms to ensure the tariff required contract terms and conditions are correctly documented for small goods transportation and storage moves. As the company has not previously received technical assistance on this matter, staff views this investigation report as technical assistance for the company to ensure documentation for small goods transportation and storage moves include the contract terms and conditions required by WAC 480-15-490 and Tariff 15-C, Item 102(5) and (8).

Findings

Staff finds that Clutter failed to properly follow tariff rules regarding small goods transportation and storage moves. The company conducted 68 moves in violation of WAC 480-15-490 and Tariff 15-C, Item 102. Within those 68 moves, 270 household good articles could not have been reasonably carried by one person, or for unboxed household good, could not have been reasonably be carried by one person and 16 moves contained more than the 25-article maximum.

Recommendations

Staff found 68 moves failed to meet the definition of a small goods transportation and storage move in violation of WAC 480-15-490 and Tariff 15-C, Item 102. Staff recommends a penalty of up to \$100 for each of the 68 violations, for a total penalty of up to of \$6,800.

Technical Assistance Recommendation

Small goods transportation and storage moves have specific contract terms and conditions required by WAC 480-15-490 and Tariff 15-C, Item 102(5) and (8). Staff found the documents for small goods storage and transportation moves contained contract terms and conditions for an hourly rated move, not for a small goods storage and transportation move.

Staff views this investigation as the company's technical assistance to ensure the contract terms and condition requirements of WAC 480-15-490 and Tariff 15-C, Item 102(5) and (8) be used for small

¹¹ Copies of photographs documented in Clutter's customer move records, are documented as Appendix J.
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goods storage and transportation moves. If future violations are found, staff may recommend penalties or take other enforcement action.

SUMMARY OF RECOMMENDATIONS

The commission set out the factors it will consider in determining the level of penalty imposed for a violation in Docket A-120061. Below is staff's analysis of those factors as applied to Clutter's violations:

1. **How serious or harmful the violation is to the public.**

The violations against Clutter illustrate how the company has disregarded the tariff rules on file with the commission. Tariff 15-C is very specific about what rules household goods carriers must abide by, such as accurately completing estimates, cube sheets, and bills of lading. Clutter charges customers inconsistent rates, most notably on weekends when they are not charging the four-hour minimum required by the entire household goods moving industry. This practice creates an uneven playing field with other Household Goods carriers who are abiding by Tariff 15-C's required hourly minimum rates.

Tariff 15-C, Item 102 exempts carriers from the rates, rules and charges of household goods moves, but requires carriers to limit the number of household goods articles to 25 or a total weight of 500 pounds transported for each customer per week. Tariff 15-C defines a "household goods article" as a box or unboxed item that can reasonably be carried by one person. Clutter transports goods in excess of the tariff limits, including moves with more than 25 goods or household goods articles that cannot be reasonably carried by one person. This practice also creates an uneven playing field with other Household Goods carriers who are abiding by Tariff 15-C's required small goods transportation and storage.

2. **Whether the violation is intentional.**

Staff believes the violations in this report are intentional regarding the minimum tariff rates not being charged, estimates, and bills of lading not being completed properly. This on-going issue has previously been documented in informal consumer complaints and continues to concern staff. It is the household goods carrier owner's responsibility to ensure their staff meets all the proper business practices required by the commission.

3. **Whether the company self-reported the violation.**

Clutter did not self-report these violations.

4. **Whether the company was cooperative and responsive.** The company was responsive to the data request sent to them on Feb. 27, 2020. Clutter requested an extension on Feb. 28, 2020, which was granted until March 25, 2020. Documents were received timely. However, the company chose not to provide all documents as requested and staff was unable to determine if it followed all rules when responding to customer complaints.

On multiple occasions, Clutter spoke with staff and acknowledged it was out of compliance with Tariff 15-C. Clutter expressed wanting to be in good standing with the Commission but did not believe Tariff 15-C would allow that, given the Company's current business model. On Feb. 10, 2021, Clutter provided staff a draft household goods tariff for Clutter.

On Feb. 26, 2021, a letter, sent on behalf of staff, was delivered to Clutter informing the Company that staff will not provide an advance review of the draft household goods tariff.

Additionally, the letter informs Clutter that staff believes it may be operating out of compliance and in violation of Tariff 15-C and is subject to Commission enforcement action.¹² On March 11, 2021, Clutter filed its own proposed tariff for commission consideration.

5. **Whether the company promptly corrected the violations and remedied the impacts.**

Clutter has not corrected several violations that were noted in three previous informal complaints such as failure to fill out forms completely and accurately or consistently charging the hourly rates required by Tariff 15-C.

6. **The number of violations.**

Staff reviewed 98 household goods moves and 111 small goods storage and transportation moves and found a total of 390 violations. Of the 390 total violations, 196 violations are repeat violations related to bills of lading and estimates.

7. **The number of consumers affected.**

Of the 209 separate moves reviewed, staff found 174 individual customers were impacted by Clutter's non-compliant business practices. The remaining 35 customers were repeat customers. Further, the customer-impacted count was only for a two-week period. Staff believes that all customers who have contracted a household goods move or small goods transportation and storage move with Clutter, have been affected by the company's dismal record keeping on their estimates, cube sheets, and bills of lading.

8. **The likelihood of recurrence.**

Based on previous compliance, staff believes it is likely that without a penalty the same or similar violations will continue to occur.

9. **The company's past performance regarding compliance, violations, and penalties.**

As noted in this investigation report, Clutter has received technical assistance for improperly completing an estimate and bill of lading for all household goods moves in 2018, 2019, and 2020. The violations of missing or incomplete estimates and bills of lading for household goods moves in this report are repeat violations. Clutter was assessed a penalty for late filing of its annual report in the reporting years 2017 and 2018.

10. **The company's existing compliance program.** Staff is not aware of any existing compliance program.

11. **The size of the company.** Clutter reported intrastate revenue of \$1,505,619 for the 2019 reporting period.

In addition, the legislature set out two specific factors that must be considered when imposing penalties under RCW 81.80.075.

¹² A copy of the letter dated Feb. 26, 2021, is attached as Appendix K.
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1. The carrier's willingness to comply with the requirements of RCW 81.80.070 and the commission's administrative rules governing household goods carriers. As discussed above, Clutter has not shown an ability or willingness to comply with applicable law. However, as previously noted, on March 11, 2021, Clutter filed its own Proposed Tariff for commission consideration.
2. The carrier's history of compliance with chapter 81.80 RCW. Again, as discussed above, Clutter has a history of non-compliance with the provisions of Title 81 RCW.

Penalty Recommendations

Staff recommends the commission issue a formal complaint against the Company and find that the Company committed 390 violations of commission laws and rules. Staff also recommends a penalty of up to \$117,400 for the following violations:

- Up to \$100 for each of the 93 violations of failing to properly charge consumers the minimum tariffed rate in violation of WAC 480-15-490 and Tariff 15-C, Item 230(6).
- Up to \$100 for each of the 33 violations of failing to bill the required minimum hours for weekday, weekend moves or state-recognized holidays in violation of WAC 480-15-490 and Tariff 15-C, Item 230(7).
- Up to \$500 for each of the 98 violations of failing to properly complete the bills of lading submitted in violation of WAC 480-15-710 and Tariff 15-C, Item 95.
- Up to \$500 for each of the 98 violations of failing to completely and accurately fill out the estimate form in violation of WAC 480-15-630 and Tariff 15-C, Item 85.
- Up to \$100 for each of the 68 violations of failing to properly follow the goods limitations required in small goods transportation and storage moves in violation of WAC 480-15-490 and Tariff 15-C, Item 102.

Technical Assistance Recommendation

Small goods transportation and storage moves have specific contract terms and conditions required by WAC 480-15-490 and Tariff 15-C, Item 102(5) and (8). Staff found the documents for small goods storage and transportation moves contained contract terms and conditions for an hourly rated move, not for a small goods storage and transportation move.

Staff views this investigation as the company's technical assistance to ensure the contract terms and condition requirements of WAC 480-15-490 and Tariff 15-C, Item 102(5) and (8) be used for small goods storage and transportation moves. If future violations are found, staff may recommend penalties or take other enforcement action.

Additionally, staff is unable to verify if Clutter provided written acknowledgement of customer complaints, advised its customers of the Commission, or properly investigated and reported its findings to the customers, as required in WAC 480-15-810, because Clutter failed to provide all documents as requested.

Staff is concerned with the overall number of complaints and claims filed by Clutter's customers and views this investigation as the company's technical assistance regarding customer complaints and claims and requirements of WAC 480-15-810.