

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Investigation of WHIDBEY LOGISTICS, LLC For Compliance with WAC 480-15-560 and WAC 480-15-570	DOCKET TV-190112 NOTICE OF INTENT TO CANCEL PERMIT AS A HOUSEHOLD GOODS CARRIER NOTICE OF BRIEF ADJUDICATIVE PROCEEDING; SETTING TIME FOR ORAL STATEMENTS (Set for April 11, 2019, at 1:30 p.m.)
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- 1 Pursuant to RCW 81.80.130, the Washington Utilities and Transportation Commission (Commission) has authority to regulate common carriers, including household goods carriers, with respect to safety of operations. Washington Administrative Code (WAC) 480-15-450 provides that the Commission may cancel a household goods carrier's permit for good cause, including when the carrier fails to comply with safety requirements. Commission staff (Staff) recommends that the Commission cancel Whidbey Logistics, LLC's (Whidbey Logistics or Company) household goods permit for good cause due to the Company's ongoing failure to comply with applicable laws and Commission rules pertaining to the operation of household goods carriers, including safety requirements set in law or rule.
- 2 WAC 480-15-999 adopts by reference Title 49 of the Code of Federal Regulations (C.F.R.), pertaining to safety requirements for household goods carriers. WAC 480-15-560 specifically requires carriers to comply with 49 C.F.R. Part 385. 49 C.F.R. § 385.13 prohibits motor carriers from operating beginning on the 61st day after the date of a notice of proposed unsatisfactory rating. Pursuant to 49 C.F.R. § 385.17, a carrier that receives a proposed unsatisfactory or conditional safety rating may request a change in its safety rating based on evidence that the company has taken corrective actions to address the identified violations and that the company's operations currently meet the safety fitness standards.
- 3 On May 16, 2018, Whidbey Logistics and Whidbey Moving & Storage Co. filed with the Commission a joint application to transfer permanent household good carrier authority in the state of Washington. On May 24, 2018 the Commission granted the joint application granting a household carrier permit to Whidbey Logistics.

- 4 On May 24, 2018, in a letter addressed to Whidbey Logistics, Staff informed the Company that it “must comply with state laws, Commission rules, and the provisions of Tariff 15-C. Failure to do so will result in Commission enforcement action, *up to and including revocation of the company’s permit.*” (emphasis added).
- 5 In February 2018, Staff conducted an investigation of Whidbey Logistics’ compliance with the safety requirements in WAC 480-15. As a result of the compliance investigation, Staff documented 117 safety requirement violations and proposed an unsatisfactory safety rating for the Company. Staff notified the Company of this proposed rating on February 21, 2019.
- 6 Whidbey Logistics must come into compliance with applicable laws by filing a safety management plan by April 2, 2019, and obtaining Commission approval of the plan no later than April 22, 2019. If the Company fails to come into compliance by that date, the Commission will cancel its household goods carrier permit effective April 23, 2019. Thereafter, as an unregistered company, Whidbey Logistics would be prohibited from providing household goods carrier services in the state of Washington.
- 7 **THE COMMISSION GIVES NOTICE: That it intends to cancel the permit and authority of Whidbey Logistics to provide services as a household goods carrier effective April 23, 2019, for cause, following a hearing on the factual allegations set out above, unless the Company obtains Commission approval of a safety management plan prior to that date.**
- 8 The Company has the right to request a hearing in this matter. Due to the short time-frame determined by the upcoming deadline, and pursuant to RCW 34.05.482 and WAC 480-07-610, the Commission schedules a hearing on its own initiative and determines that a brief adjudicative proceeding is appropriate to determine whether the Commission should cancel Whidbey Logistics household goods carrier permit.
- 9 **THE COMMISSION GIVES FURTHER NOTICE: That it will hold a brief adjudicative proceeding in this matter at 1:30 p.m. on Thursday, April 11, 2019, in Room 206, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.**
- 10 The record in this case will consist of any documents regarding the matter that are considered by or prepared for the presiding officer for the brief adjudicative proceeding and a transcript of any oral statements given at the hearing, which statements will be given under oath.
- 11 Written notice of any other stage in the proceeding or other formal proceedings that the Commission may deem appropriate will be given during the course of this case. The Commission will provide at its offices in Olympia, Washington, copies of documents in the current record for use by the parties or others who may want to review them.

- 12 **Whidbey Logistics must submit its proposed safety management plan no later than 5 p.m. on April 2, 2019.** Parties wishing to submit any other documents for consideration at the brief adjudicative proceeding must file with the Commission a list enumerating and describing any such documents **no later than 5 p.m., April 2, 2019** and bring four (4) copies of those documents to the hearing. Filing shall be in accordance with WAC 480-07-140.
- 13 **THE COMMISSION GIVES NOTICE: That any party who fails to attend or participate in the brief adjudicative proceeding set by this Notice, or any other stage of this proceeding, may be held in default under RCW 34.05.440 and WAC 480-07-450.**
- 14 The names and mailing addresses of all parties and their known representatives are shown as follows:

Commission: Washington Utilities and
Transportation Commission
1300 S. Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, WA 98504-7250

Representative: Joe Dallas
Assistant Attorney General
1400 S. Evergreen Park Drive S.W.
P.O. Box 40128
Olympia, WA 98504-0128
(360) 664-1192
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Respondent: Whidbey Logistic, LLC
1083 SE 4th Ave.
Oak Harbor, WA 98277
(206) 675-2892
wms@whidbeymoving.com

Representative: Unknown

15 Administrative Law Judge Rayne Pearson, from the Commission's Administrative Law Division, will preside during this proceeding.

DATED at Olympia, Washington and effective February 27, 2019

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

MARK L. JOHNSON
Executive Director and Secretary

Inquiries may be addressed to:

Executive Director and Secretary
Washington Utilities and Transportation Commission
Richard Hemstad Building
1300 S. Evergreen Park Drive S.W.
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NOTICE

Hearing facilities are accessible to persons with disabilities. Smoking is prohibited. If limited English-speaking, hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

If you need an interpreter, or have other special needs, please fill out this form and return it to Washington State Utilities and Transportation Commission, Attention: Mark L. Johnson, 1300 S. Evergreen Park Drive SW, P. O. Box 47250, Olympia, WA 98504-7250. **(PLEASE SUPPLY ALL REQUESTED INFORMATION)**

Docket : _____

Case Name: _____

Hearing Date: _____ Hearing Location: _____

Primary Language: _____

Hearing Impaired (Yes) _____ (No) _____

Do you need a certified sign language interpreter:

Visual _____ Tactile _____

Other type of assistance needed: _____

English-speaking person who can be contacted if there are questions:

Name: _____ Address: _____

Phone No.: (____) _____