

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

CLUTTER, INC.,

Respondent.

DOCKET TV-200432

ORDER 01

COMPLAINT SEEKING TO
IMPOSE PENALTIES; NOTICE OF
PREHEARING CONFERENCE
**(Set for May 4, 2021,
at 9:30 a.m.)**

1 The Washington Utilities and Transportation Commission (Commission) on its own motion,
and through its regulatory staff (Staff), alleges as follows:

I. PARTIES

2 The Commission is an agency of the state of Washington authorized by statute to regulate
the rates, services, facilities, and practices of public service companies, including common
carriers and household goods carriers.

3 Clutter, Inc., (Clutter or Company) is a Delaware corporation registered with the
Washington Secretary of State as a foreign entity under UBI No. 603 572 359. The
Company lists its “Nature of Business” as “transportation & warehousing.” The Company’s
primary place of business is 3526 Hayden Ave., Culver City, CA, 90232-2413. Ari Mir,
Omar Hamoui, Hati Sukhla, and Hiro Tamura are each listed as governors of the business.
The Company is also registered with the Washington State Department of Revenue. Clutter
holds an active, provisional permit, to operate as a household goods carrier in the state of
Washington (Permit No. THG067494).

II. BACKGROUND

4 On February 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.

5 On January 20, 2017, the Commission issued the Company a provisional permit (Permit No.
THG067494) to operate as a household goods carrier in the state of Washington.

- 6 Commission records indicate that two Company representatives participated in the Commission's household goods carrier training in November 2017 and in August 2019.
- 7 On July 31, 2018, a consumer filed an informal complaint (CAS-23433-M8W1V9) against Clutter related to a household goods move. After investigating this complaint, Staff cited one violation of WAC 480-15-620 (failure to provide a copy of the commission consumer guide), one violation of WAC 480-15-630 (failure to provide an estimate), and one violation of WAC 480-15-710(2) (failure to issue a bill of lading).
- 8 On August 26, 2019, a consumer filed an informal complaint (CAS-25543-C4C7G2) against Clutter regarding a household goods move. After investigating this complaint, Staff cited one violation of WAC 480-15-890(1) (failure to provide requested documentation within required timeframe), one violation of WAC 480-15-890(2) (failure to provide additional requested documentation within required timeframe), and three violations of WAC 480-15-490(3) (failure to charge rates in accordance with Tariff 15-C).
- 9 On August 13, 2020, a consumer filed an informal complaint (CAS-27207-N1H4F3) against Clutter related to a household goods move. In reviewing this complaint, Staff cited six violations of WAC 480-15-490(3) (failure to charge rates in accordance with Tariff 15-C), two violations of WAC 480-15-630 (failure to provide signature of company representative in accordance with Tariff 15-C), and two violations of WAC 480-15-710 (failure to provide start, stop, and any interruption time for each employee).
- 10 On February 27, 2020, Staff issued a data request to the Company seeking compliance records and information for every residential move and small goods transportation and storage performed by the Company in the state of Washington between June 1, 2019, through January 31, 2020. Staff also requested a copy of the Company's customer complaint and claims register, including all complaints and claims received by the Company between June 1, 2019, and January 31, 2020, a list of the Company's current employees in Washington, and a copy of the criminal background check for every current and former employee.
- 11 On March 24, 2020, Clutter provided the requested documents to Staff.
- 12 The claims register provided by the Company revealed 446 total claims, as well as settlement and release agreements for 92 customers between June 1, 2019, and January 30, 2020. According to the claim register, Clutter paid \$276,146.94 in compensation to Washington customers during the same period.
- 13 On June 3, 2020, Staff issued another data request seeking additional move-related documents and information from Clutter for all household goods moves and small goods transportation and storage between June 16, 2019, and June 30, 2019.

- 14 On June 26, 2020, Clutter provided move-related documents and information, including photographs, for 209 moves conducted between June 16, 2019, and June 30, 2019. Staff used documents and information provided by the Company 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 moves as small goods transportation and storage.
- 15 Of the 98 hourly-rated moves reviewed, Staff determined that Clutter failed to properly calculate and/or charge the correct tariff rate on 93 occasions in violation of WAC 480-15-490 and Tariff 15-C, Item 230(6). Specifically, eight moves were charged below the minimum tariffed rate, while 85 moves did not indicate the minimum tariff rate charged on the bill of lading (and therefore Staff was unable to determine if the correct tariff rate was charged).
- 16 Of the 98 hourly-rated moves reviewed, Staff determined that Clutter incorrectly charged customers on 33 occasions in violation of WAC 480-15-490 and Tariff 15-C, Item 230(7). Specifically, the Company failed to charge customers the required minimum hours for weekday hours, weekend hours, or state-recognized holidays.
- 17 Staff determined that each of the 98 hourly-rated moves reviewed by Staff contained one or more of the following violations of WAC 480-15-710 and/or Tariff 15-C provisions regarding bills of lading: (1) failure to issue a bill of lading for household goods move in violation of Tariff 15-C, Item 95(1); (2) failure to list the start, stop, and end time of the move for each employee in violation of Tariff 15-C, Item 95(1)(m); and (3) failure to have the consumer select their preferred valuation option in violation of WAC 480-15-710 and Tariff 15-C, Item 95(1)(k).
- 18 Staff determined that each of the 98 hourly-rated moves reviewed by Staff contained one or more of the following violations of WAC 480-15-630 and/or Tariff 15-C provisions regarding estimates: (1) failure to charge customers minimum tariffed rate in violation of Tariff 15-C, Item 230(6); (2) failure to charge customers the four-hour minimum for weekend rates or state-recognized holidays in violation of Tariff 15-C, Item 230(7)(a)(ii); (3) failure to correctly fill out the Table of Measurements (cube sheet) in violation of Tariff 15-C, Item 85(3)(g); (4) failure to have the customer select their valuation option in violation of Tariff 15-C, Item 85(3)(m); (5) failure to list the forms of payment accepted in violation of Tariff 15-C, Item 85(3)(r); and (6) failure to ensure the carrier and the customer signed the estimate in violation of Tariff 15-C, Item 85(3)(t).
- 19 Of the 111 small goods transportation and storage moves reviewed, Staff determined that Clutter violated the maximum item limit, included items that could not be reasonably carried by one person, or both, on 68 occasions in violation of WAC 480-15-490 and Tariff 15-C, Item 120(2). Specifically, within those 68 moves, Staff found: (1) 270 household goods

articles that could not be reasonably carried by one person or unboxed household goods that could not reasonably be carried by one person (*e.g.*, a wood armoire, king size mattress, a sofa, and a grandfather clock) in violation of Tariff 15-C, Item 102(2)(b); and (2) 16 moves that exceeded the 25-article maximum in violation of Tariff 15-C, Item 102(2)(a).

- 20 On March 11, 2021, Clutter filed with the Commission its own proposed tariff for Commission consideration, requesting to revise and/or replace certain of Tariff 15-C's requirements only as they apply to Clutter's operations.

III. JURISDICTION

- 21 The Commission has jurisdiction over the subject matter of this complaint under RCW 80.01.040, RCW 80.01.060, RCW 81.01.010, RCW 81.04.020, RCW 81.04.110, RCW 81.04.160, RCW 81.04.250, RCW 81.04.380, RCW 81.04.460, RCW 81.04.510, RCW 81.28.040, RCW 81.80.120, RCW 81.80.130, RCW 81.80.290, chapter 81.80 RCW, chapter 34.05 RCW, and WAC Chapter 480-15.

IV. APPLICABLE LAWS AND REGULATIONS

- 22 The Commission regulates public service companies pursuant to a delegation of authority from the legislature. *See* RCW 80.01.040(2); RCW 81.01.010.
- 23 Household goods carriers are common carriers, RCW 81.04.010(11), and therefore public service companies. RCW 81.04.010(16).
- 24 The Commission may promulgate rules for the safe operation of household goods carriers. RCW 81.80.130, RCW 81.80.290.
- 25 The Commission may file a complaint on its own motion setting forth any act or omission by any public service company that violates any law or any order or rule of the Commission. RCW 81.04.110.
- 26 A public service company that violates any order or rule of the Commission or any provision of RCW Title 81 is subject to a penalty up to \$1,000 for each violation. RCW 81.04.380. In the case of a continuing violation, every day's continuance represents a separate and distinct violation. *Id.*
- 27 WAC 480-15-490 requires household goods carriers to follow the rates, terms, and conditions authorized in the Commission-published tariff, Tariff No. 15-C—*Rates, terms and conditions for the transportation of household goods between points in the state of Washington* (Tariff 15-C). WAC 480-15-490(3). Tariff 15-C, among other things, contains the rates and charges that household goods carriers must assess on shipments of household goods, including rules governing how rates and charges are assessed, and establishes

minimum and maximum rates that household goods carriers may charge. WAC 480-15-490(1), (4).

- 28 WAC 480-15-710 requires household goods carriers to issue a bill of lading for each shipment of household goods it transports, and to provide the customer a completed copy of the bill of lading used for the customer's shipment. WAC 480-15-710(2). A bill of lading is a "shipping document issued by the household goods carrier, signed by both the customer and the household goods carrier that establishes a legal contract with terms and conditions for a shipment of household goods." WAC 480-15-710(1). The carrier must include the information in a bill of lading as described in the Commission's Tariff 15-C. WAC 480-15-710(3). The carrier must keep the bill of lading and all associated documents for three years from the date the move was completed. WAC 480-15-710(4).
- 29 WAC 480-15-630 requires household goods carriers to provide a written estimate to every customer prior to moving a shipment of household goods. The carrier must provide estimates by following the requirements set in the Commission-published tariff covering household goods movers. *Id.* Carriers must complete the estimates as required by tariff. WAC 480-15-630(7). All written estimates must be signed and dated by both the carrier and customer prior to the move. WAC 480-15-630(8).
- 30 The Commission defines household goods as "the personal effects and property used, or to be used, in a residence" in the context of transportation from one residence to another, or to a storage facility. WAC 480-15-020.
- 31 In the context of motor freight carriers, the term "[c]ommon carrier" means any person who undertakes to transport property for the general public by motor vehicle for compensation, whether over regular or irregular routes, or regular or irregular schedules." RCW 81.80.010(1).
- 32 The term "person" encompasses firms as well as an individual. RCW 81.04.010(6); RCW 1.16.080(1). Specifically included in this term are companies, corporations, and partnerships. WAC 480-15-020.

**V. FIRST CAUSE OF ACTION
(93 violations of WAC 480-15-490 and Tariff 15-C, Item 230(6))**

- 33 The Commission re-alleges the allegations contained in paragraphs 2–32 above.
- 34 The Commission alleges that Clutter violated WAC 480-15-490 and Tariff 15-C, Item 230(6) a total of 93 times by charging below the minimum tariffed rate and/or failing to indicate the minimum tariff rate charged on the bill of lading.

VI. SECOND CAUSE OF ACTION
(33 violations of WAC 480-15-490 and Tariff 15-C, Item 230(7))

- 35 The Commission re-alleges the allegations contained in paragraphs 2–32 above.
- 36 The Commission alleges that Clutter violated WAC 480-15-490 and Tariff 15-C, Item 230(7) a total of 33 times by failing to charge customers the required minimum hours for weekday hours, weekend hours, or state-recognized holidays.

VII. THIRD CAUSE OF ACTION
(98 violations of WAC 480-15-710 and Tariff 15-C, Item 95)

- 37 The Commission re-alleges the allegations contained in paragraphs 2–32 above.
- 38 The Commission alleges that Clutter violated WAC 480-15-710 and Tariff 15-C, Item 95 a total of 98 times by either failing to issue or failing to properly complete bills of lading.

VIII. FOURTH CAUSE OF ACTION
(98 violations of WAC 480-15-630 and Tariff 15-C, Items 85 and/or 230)

- 39 The Commission re-alleges the allegations contained in paragraphs 2–32 above.
- 40 The Commission alleges that Clutter violated WAC 480-15-630 and Tariff 15-C, Items 85 and/or 230 a total of 98 times by failing to properly complete written estimates.

IX. FIFTH CAUSE OF ACTION
(68 violations of WAC 480-15-490 and Tariff 15-C, Item 102)

- 41 The Commission re-alleges the allegations contained in paragraphs 2–32 above.
- 42 The Commission alleges that Clutter violated WAC 480-15-490 and Tariff 15-C, Item 102 a total of 68 times for failure to properly follow goods limitations for small goods transportation and storage moves.

X. REQUEST FOR RELIEF

- 43 Staff requests that the Commission, pursuant to its authority under RCW 81.04.380 and RCW 81.80.360, assess penalties of up to \$100 against Clutter for each violation of WAC 480-15-490 and Tariff 15-C, Item 230(6).

- 44 Staff also requests that the Commission, pursuant to its authority under RCW 81.04.380 and RCW 81.80.360, assess penalties of up to \$100 against Clutter for each violation of WAC 480-15-490 and Tariff 15-C, Item 230(7).
- 45 Staff also requests that the Commission, pursuant to its authority under RCW 81.04.380 and RCW 81.80.360, assess penalties of up to \$500 against Clutter for each violation of WAC 480-15-710 and Tariff 15-C, Item 95.
- 46 Staff also requests that the Commission, pursuant to its authority under RCW 81.04.380 and RCW 81.80.360, assess penalties of up to \$500 against Clutter for each violation of WAC 480-15-630 and Tariff 15-C, Item 85.
- 47 Staff also requests that the Commission, pursuant to its authority under RCW 81.04.380 and RCW 81.80.360, assess penalties of up to \$100 against Clutter for each violation of WAC 480-15-490 and Tariff 15-C, Item 102.
- 48 Finally, Staff requests that the Commission order such other or additional relief as is appropriate under the circumstances.

XI. PROBABLE CAUSE

- 49 Based on a review of the Staff Investigation Report documenting the violations alleged above, and consistent with RCW 80.01.060 and WAC 480-07-307, the Commission finds probable cause exists to issue this Complaint.

XII. NOTICE OF PREHEARING CONFERENCE

- 50 The Commission will hear this matter under the Administrative Procedure Act (APA), particularly Part IV of RCW 34.05 relating to adjudications. The provisions of the APA that relate to this proceeding include, but are not limited to RCW 34.05.413, RCW 34.05.422, RCW 34.05.431, RCW 34.05.440, RCW 34.05.449, and RCW 34.05.452. The Commission will also follow its procedural rules in WAC 480-07 in this proceeding.
- 51 **THE COMMISSION GIVES NOTICE: That it will hold a virtual prehearing conference in this matter at 9:30 a.m. on May 4, 2021. To participate by phone, please call (253) 372-2181 and enter the Conference ID: 665 891 703#. To participate via Microsoft Teams, please use the following link: [Click here to join the meeting.](#)**
- 52 The purpose of the prehearing conference is to consider requests for intervention, resolve scheduling matters including establishing dates for distributing evidence, identify the issues

in the proceeding, and determine other matters to assist the Commission in resolving the matter, as listed in WAC 480-07-430.

53 **INTERVENTION:** Persons who wish to intervene should file a petition to intervene in writing at least three business days before the date of the prehearing conference. *See* WAC 480-07-355(a). The Commission will consider oral petitions to intervene during the conference, but strongly prefers written petitions to intervene. Party representatives must file a notice of appearance with the Commission no later than the business day before the conference. *See* WAC 480-07-345(2). Parties with more than one representative must identify one individual as the “lead” for purposes of official service. Any party or witness in need of an interpreter or other assistance should fill out the form attached to this notice and return it to the Commission. The Commission will set the time and place for any evidentiary hearings at the prehearing conference, on the record of a later conference or hearing session, or by later written notice.

54 **THE COMMISSION GIVES NOTICE** that any party who fails to attend or participate in the prehearing conference 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.

55 The names and mailing addresses of all known parties and their known representatives are as follows:

Carrier:	Clutter, Inc. 3526 Hayden Ave. Culver City, CA 90232 compliance@clutter.com
Registered Agent:	Registered Agent Solutions, Inc. P.O. Box 1368 Olympia, WA 98507
Representative:	Chad M. Stokes Cable Huston LLP 1455 S.W. Broadway, Suite 1500 Portland, OR 97201-3412 cstokes@cablehuston.com
Complainant:	Washington Utilities and Transportation Commission 621 Woodland Park Loop S.E. P.O. Box 47250 Olympia, WA 98504-7250

(360) 664-1160

Representatives: Daniel J. Teimouri and Joe M. Dallas
Office of the Attorney General
621 Woodland Park Loop S.E.
P.O. Box 40128
Olympia, WA 98504-7250
(360) 664-1189
daniel.teimouri@utc.wa.gov
(360) 664-1192
joe.dallas@utc.wa.gov

- 56 Administrative Law Judge Rayne Pearson, from the from the Commission's Administrative Law Division, will preside during this proceeding.¹
- 57 The Commission will give parties notice of any other procedural phase of the proceeding in writing or on the record, as appropriate during this proceeding.

DATED at Lacey, Washington, and effective March 25, 2021.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Gregory J. Kopta
GREGORY J. KOPTA
Administrative Law Judge

Inquiries may be addressed to:

Mark L. Johnson
Executive Director and Secretary
621 Woodland Square Loop S.E.
P.O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

¹ Judge Pearson can be reached by email at rayne.pearson@utc.wa.gov or by phone at (360) 664-1136.

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 and return this form to:

Washington Utilities and Transportation Commission
Attention: Mark L. Johnson
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 (_____) _____