

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Investigation of

MR. MUSCLES MOVING COMPANY  
LLC

For Compliance with WAC 480-15-530,  
WAC 480-15-550, WAC 480-15-555,  
WAC 480-15-560, and WAC 480-15-570

DOCKET TV-220417

NOTICE OF INTENT TO CANCEL

NOTICE OF HEARING; SETTING TIME  
FOR ORAL STATEMENTS  
(Set for July 22, 2022, at 10 a.m.)

COMPLAINT FOR PENALTIES

NOTICE OF PREHEARING  
CONFERENCE  
(Set for July 8, 2022, 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 household  
goods carriers.

3 Mr. Muscle Moving Company LLC (M.M.M. or Company) is a Washington limited liability  
company engaging in business as a household goods carrier. M.M.M. currently holds  
Commission-issued provisional permit number THG-069221.

**II. BACKGROUND**

4 On June 15, 2020, the Commission first issued to M.M.M. a provisional household goods  
carrier permit THG-069221.<sup>1</sup>

5 On November 5, 2021, the Commission cancelled M.M.M.'s provisional permit for failure  
to submit acceptable proof of insurance.<sup>2</sup> The notice of cancellation informed M.M.M. that

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<sup>1</sup> Decl. of Tracy Coble at 1 ¶ 4.

<sup>2</sup> *Id.* at 1 ¶ 5.

it needed to cease all operations associated with the permit and notified the company that the Commission could take enforcement action if M.M.M. continued to operate as a household goods carrier without a valid permit.<sup>3</sup>

6 After submitting the applicable insurance information, M.M.M. applied for reinstatement, and the Commission re-issued to M.M.M. permit THG-069221 on January 10, 2022.<sup>4</sup>

7 Between late April and early June 2022, Staff reviewed M.M.M.'s compliance with the requirements of state laws governing the operations of household goods carriers.

8 During its compliance investigation, Staff documented five occasions on which M.M.M. operated by transporting household goods over the public highways for compensation between November 6, 2021, and January 9, 2022, while the Company's did not have a permit.<sup>5</sup>

9 Staff also documented:

- 3 critical violations of WAC 480-15-555 based on M.M.M.'s failure to perform criminal background checks on 3 of its employees;<sup>6</sup>
- 30 critical violations of 49 Code of Federal Regulations (C.F.R.) § 395.8(a)(1) based on M.M.M.'s failure to require drivers to prepare records of duty status;<sup>7</sup>
- 1 critical-type violation of 49 C.F.R. § 391.51(a) based on M.M.M.'s failure to maintain driver qualification files for each driver employed;<sup>8</sup>
- 2 violations of WAC 480-15-590(3) and -590(4) for failure to maintain the original lease agreement for a term leased vehicle the company operated in the previous 365 days;<sup>9</sup>
- 1 violation, with 23 individual occurrences, of 49 C.F.R. § 391.45(a) based on M.M.M.'s use of drivers not medically examined and certified;<sup>10</sup>

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<sup>3</sup> *Id.*

<sup>4</sup> *Id.* at 1 ¶ 6.

<sup>5</sup> *Id.* at 1 ¶ 7.

<sup>6</sup> *Id.* at 2 ¶ 8.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

- 1 violation of WAC 480-15-480(4) based on M.M.M.'s failure to file annual reports with the Commission;<sup>11</sup>
- 1 violation of 49 C.F.R. § 396.17(a) based on M.M.M.'s use of a vehicle that had not been periodically inspected;<sup>12</sup> and,
- 1 violation of 49 C.F.R. § 396.3(b) based on M.M.M.'s failure to retain vehicle maintenance files.<sup>13</sup>

10 On June 1, 2022, Staff completed its investigation and notified M.M.M. that the investigation produced a proposed conditional safety rating for the company.

### III. JURISDICTION

11 The Commission has jurisdiction over the subject matter of this complaint under chapter 34.05 RCW, RCW 80.01.040, RCW 80.01.060, RCW 81.01.010, RCW 81.04.010, RCW 81.04.020, RCW 81.04.110, RCW 81.04.380, RCW 81.04.460, RCW 81.04.510, RCW 81.80.075, RCW 81.80.130, WAC 480-15-180, WAC 480-15-555, WAC 480-15-560, and WAC 480-15-570.

### IV. APPLICABLE LAW

12 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.

13 Household goods carriers are common carriers, RCW 81.04.010(11), and therefore public service companies. RCW 81.04.010(16).

14 State law defines the term “household goods carrier” to mean “a person who transports for compensation, by motor vehicle within this state, or who advertises, solicits, offers, or enters into an agreement to transport household goods as defined by the Commission.” RCW 81.80.010(5); see WAC 480-15-020, -180.

15 The Commission’s rules define household goods as “the personal effects and property used, or to be used, in a residence when transported or arranged to be transported between residences or between a residence and a storage facility with the intent to later transport to a residence or when referenced in connection with advertising, soliciting, offering, or entering into an agreement for such transportation. Transportation of the goods must be arranged and

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<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

paid for by the customer or by another individual, company or organization on behalf of the customer.” WAC 480-15-010.

- 16 WAC 480-15-480(4) requires that household goods “[c]arriers must file annual reports and pay regulatory fees by May 1st of each year based on the prior year’s operations.”
- 17 WAC 480-15-555 requires household goods carriers to “complete a criminal background check for every person the carrier intends to hire.” WAC 480-15-555(1). Carriers must retain evidence that they have performed the necessary backgrounds checks for no less than three years after the date the employee ceases his or her employment by the carrier. WAC 480-15-555(2).
- 18 WAC 480-15-560 incorporates into the Commission’s rules federal regulations governing equipment safety requirements codified in various Parts of Title 49 Code of Federal Regulations (C.F.R.), including all of Parts 375, 380, 382, 383, 385, 387, 390, 391, 395, and 397.
- 19 WAC 480-15-570 incorporates into the Commission’s rules federal regulations governing driver safety requirements codified in various Parts of Title 49 C.F.R., including all of Parts 375, 379, 380, 385, 390, 392, 393, 396, and 397.
- 20 WAC 480-15-590 requires household goods carriers to enter into an equipment lease agreement before operating a leased motor vehicle. WAC 480-15-590(3) requires household goods carriers to ensure that “[a] copy of the lease is carried in all leased motor vehicles.” WAC 480-15-590(4) requires household goods carriers to ensure that “[c]opies of all leases are kept in the carrier’s permanent files for at least one year after the lease expires.”
- 21 Federal law incorporated into the Commission’s rules prohibits motor carriers from operating beginning the 61st day after the date of the notice of a proposed unsatisfactory safety rating. 49 C.F.R. 385.13(a)(2).
- 22 A carrier may request a change in its proposed safety rating based on evidence that it has taken corrective action to address the identified violations and that its operations currently meet the safety standard specified in 49 C.F.R. §§ 385.5 and 385.7.
- 23 State law forbids a person from “engaging in business as a household goods carrier without first obtaining a household goods carrier permit from the [C]ommission.” RCW 81.80.075(1); WAC 480-15-180.
- 24 The Commission may file a complaint upon 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.
- 25 A public service company that violates or fails to comply with any provision of Title 81 RCW, “or which fails, omits, or neglects to obey, observe, or comply with any order, rule,

or any direction, demand or requirement of the commission” is subject to a penalty of up to \$1,000 for each “offense.” RCW 81.04.380.

- 26 Any person engaging in business as a household goods carrier without first obtaining the permit required by RCW 81.80.075(1) is subject to a penalty of up to \$5,000 per violation. RCW 81.80.075(4).

#### V. NOTICE OF INTENT TO CANCEL HOUSEHOLD GOODS CARRIER PERMIT

- 27 Provisional household goods companies must achieve a satisfactory safety rating prior to receiving permanent status. Because the Company has yet to achieve a satisfactory safety rating, the Commission will afford M.M.M. the same opportunity as companies that receive a proposed unsatisfactory safety rating to provide evidence, in the form of an approved safety management plan, showing that the Company took corrective action to address the identified violations. M.M.M. must come into compliance with applicable laws by obtaining Commission approval of a safety management plan to no later than July 29, 2022. If M.M.M. fails to come into compliance by that date, the Commission will cancel its household goods carrier permit effective August 1, 2022. M.M.M. would thereafter be prohibited from engaging in the business of a household goods carrier.

- 28 **THE COMMISSION GIVES NOTICE That it intends to cancel the permit and authority of M.M.M. to provide services as a household goods carrier effective August 1, 2022, for cause, following a hearing on the factual allegations set out above, unless M.M.M. obtains Commission approval of a safety management plan prior to that date.**

#### VI. NOTICE OF HEARING

- 29 Pursuant to RCW 34.05.482 and WAC 480-07-610, the Commission schedules a hearing on its own initiative to determine whether the Commission should cancel M.M.M.’s household goods carrier permit and assess penalties.

- 30 **THE COMMISSION GIVES NOTICE That it will hold a virtual evidentiary hearing in this matter at 10 a.m., on July 22, 2022. To attend the hearing by telephone, please call (253) 215-8782 and enter the Meeting ID: 883 7337 8649# and Passcode: 942351#. To attend via Zoom, please use the following link: [Click to Join Meeting](#).**

- 31 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 evidentiary hearing and a transcript of any oral statements given at the hearing, which statements will be given under oath.

- 32 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 on its website copies of documents in the current record for use by the parties or others who may want to review them.

33 **M.M.M. must submit its proposed safety management plan no later than 5 p.m. on July 8, 2022.** Parties wishing to submit any other documents for consideration at the evidentiary hearing must file with the Commission a list enumerating and describing any such documents **no later than 5 p.m. on July 15, 2022**, and email copies of those documents to the other parties and the presiding officer by 5 p.m. on July 15, 2022. Filing shall be in accordance with WAC 480-07-140.

34 **THE COMMISSION GIVES NOTICE that any party who fails to attend or participate in the evidentiary hearing 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.**

#### **VII. FIRST CAUSE OF ACTION**

35 The Commission re-alleges paragraphs 2 through 24, above.

36 The Commission alleges that M.M.M. violated RCW 81.80.075(1) on 5 occasions by transporting household goods for compensation over the public highways of Washington State without first obtaining a permit authorizing it to engage in business as a household goods carrier.

#### **VIII. SECOND CAUSE OF ACTION**

37 The Commission re-alleges paragraphs 2 through 24, above.

38 The Commission alleges that M.M.M. violated WAC 480-15-555 on 3 occasions by failing to perform criminal backgrounds checks on persons it hired.

#### **IX. THIRD CAUSE OF ACTION**

39 The Commission re-alleges paragraphs 2 through 24, above.

40 The Commission alleges that M.M.M. violated WAC 480-15-480(4) on 1 occasion by failing to file its annual report for the years 2020 and 2021.

#### **X. FOURTH CAUSE OF ACTION**

41 The Commission re-alleges paragraphs 2 through 24, above.

42 The Commission alleges that M.M.M. violated the safety rules codified in WAC 480-15-590(3) and -590(4) on 2 occasions by failing to maintain the original lease agreement for a term leased vehicle the company operated in the previous 365 days.

## XI. FIFTH CAUSE OF ACTION

- 43 The Commission re-alleges paragraphs 2 through 24, above.
- 44 The Commission alleges that M.M.M. violated the safety rules codified in WAC 480-15-560 and WAC 480-15-570 56 times by violating the federal regulations found in 49 C.F.R. Parts 391, 395, and 396 incorporated into those rules.

## XII. REQUEST FOR RELIEF

- 45 Staff requests that the Commission, pursuant to its authority under RCW 81.80.075(4), assess penalties of up to \$5,000 for each violation of RCW 81.80.075(1).
- 46 Additionally, Staff requests that the Commission, pursuant to its authority under RCW 81.04.380, assess penalties of up to \$1,000 for each violation of WAC 480-15-480(4), WAC 480-15-555, WAC 480-15-560, WAC 480-15-570, and WAC 480-15-590.
- 47 Staff further requests that the Commission order such other or further relief as is appropriate under the circumstances.

## XIII. PROBABLE CAUSE

- 48 Based on a review of the declaration of Tracy Cobile, and consistent with RCW 80.01.060 and WAC 480-07-307, the Commission finds probable cause exists to issue this complaint.

## XIV. NOTICE OF PREHEARING CONFERENCE

- 49 The Commission will hear the complaint in 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's procedural rules, chapter 480-07 WAC, will apply in this proceeding.
- 50 **THE COMMISSION GIVES NOTICE That it will hold a virtual prehearing conference in this matter at 9:30 on July 8, 2022. To participate by phone, call (253) 215-8782 and enter the Meeting ID: 823 4813 5012# and Passcode 418122#. To attend via Zoom, please use the following link: [Click to join meeting](#).**
- 51 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.

52 **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.<sup>14</sup> 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.<sup>15</sup> 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.

53 **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.**

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

Commission: Washington Utilities and Transportation  
Commission  
621 Woodland Square Loop SE  
Lacey, WA 98503

Representative: Daniel J. Teimouri  
Assistant Attorney General  
621 Woodland Square SE  
Lacey, WA 98503  
(360) 664-1189  
[daniel.teimouri@utc.wa.gov](mailto:daniel.teimouri@utc.wa.gov)

Respondent: Mr. Muscles Moving Company LLC  
Lex Conner  
9440 Olson Place SW  
Seattle, WA 98106  
[ajconner99@hotmail.com](mailto:ajconner99@hotmail.com)

Representative: Unknown

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<sup>14</sup> WAC 480-07-355(a).

<sup>15</sup> WAC 480-07-345(2).



55 Administrative Law Judge Rayne Pearson, from the Commission’s Administrative Law Division, will preside during this proceeding.<sup>16</sup>

DATED at Lacey, Washington and effective June 28, 2022.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

Amanda Maxwell  
Executive Director and Secretary

Inquiries may be addressed to:

Executive Director and Secretary  
Washington Utilities and Transportation Commission  
P.O. Box 47250  
Olympia, WA 98504-7250  
(360) 664-1160

**NOTICE**

Hearings are accessible to persons with disabilities and persons who do not speak English as a first language. If limited English-speaking or 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 provide the information requested below via email to Paige Doyle, paralegal, at paige.doyle@utc.wa.gov:

(PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket: \_\_\_\_\_

Case Name: \_\_\_\_\_

Hearing Date: \_\_\_\_\_ Hearing Location: \_\_\_\_\_

<sup>16</sup> Judge Pearson can be reached at (360) 664-1136 or rayne.pearson@utc.wa.gov.

Primary Language: \_\_\_\_\_

Hearing Impaired: (Yes) \_\_\_\_\_ (No) \_\_\_\_\_

Do you need a certified sign language interpreter:

Visual \_\_\_\_\_ Tactile \_\_\_\_\_

Other type of assistance needed: \_\_\_\_\_