

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

**NOTICE OF PENALTIES INCURRED AND DUE
FOR VIOLATIONS OF LAWS AND RULES**

PENALTY ASSESSMENT: TV-230061
PENALTY AMOUNT: \$500

Marsik Movers LLC
11205 186th St. Ct. E
Puyallup, WA 98374

The Washington Utilities and Transportation Commission (Commission) believes Marsik Movers LLC (Marsik Movers or Company) violated Washington Administrative Code (WAC) 480-15-530, Public Liability and Property Damage Insurance; WAC 480-15-560, Equipment Safety Requirements, which adopts Title 49 Code of Federal Regulations (49 C.F.R.) Part 390 – Safety Regulations, General; and WAC 480-15-590, Leasing Vehicles.

Revised Code of Washington (RCW) 81.04.405 allows penalties of \$100 for each violation. In the case of an ongoing violation, every day's continuance is considered a separate and distinct violation.

On January 25, 2023, Commission Motor Carrier Investigator Tracy Cobile completed a follow-up safety investigation of Marsik Movers and documented the following violations:

- **Three violations of WAC 480-15-530 – Operating a motor vehicle without having in effect the required minimum levels of financial responsibility coverage.** Marsik Movers failed to maintain the required public liability and property damage insurance. The Company allowed its drivers to operate a commercial motor vehicle (CMV) without the required insurance on three occasions between November 4, 2022, and January 18, 2023.
- **One violation of WAC 480-15-590 – Failing to ensure that all equipment lease agreement conditions of WAC 480-15-590 are met prior to operating a leased motor vehicle.** The Company failed to maintain a valid original lease agreement for its leased CMV.
- **One violation of 49 C.F.R. § 390.19(b)(2) – Failing to file the MCS-150 registration form each 24 months according to the schedule.** The Company failed to file the required MCS-150 registration form with its vehicle miles traveled and correct driver information.

The Commission considered the following factors in determining the appropriate penalties for these violations:

1. **How serious or harmful the violations are to the public.** The violations noted are serious and potentially harmful to the public. Household goods moving companies that:
(1) operate CMVs without the required public liability and property damage insurance,

(2) fail to retain written agreements for leased equipment, and (3) fail to provide accurate data in their Motor Carrier Identification Report put their customers, their customers' belongings, and the traveling public at risk. These violations present safety concerns.

2. **Whether the violations were intentional.** Considerations include:

- Whether the Company ignored Commission staff's (Staff) previous technical assistance; and
- Whether there is clear evidence through documentation or other means that shows the Company knew of and failed to correct the violation.

On May 2, 2019, the Commission received the Company's application for household goods moving authority. In the application, Marcel Filip, owner of Marsik Movers, acknowledged the Company's responsibility to understand and comply with applicable motor carrier safety laws and regulations.

On August 7, 2019, Marcel Filip attended household goods training provided by Staff and acknowledged receiving training pertaining to motor carrier safety regulations.

On March 22, 2022, Staff completed a routine safety investigation of Marsik Movers and documented violations of WAC 480-15-590 and 49 C.F.R. § 390.19(b)(2). Staff provided technical assistance to the Company during this safety investigation. The Company knew or should have known about these requirements.

3. **Whether the Company self-reported the violations.** Marsik Movers did not self-report these violations.
4. **Whether the Company was cooperative and responsive.** The Company was mostly cooperative and responsive during the safety investigation, but was at times evasive in answering Staff's questions.
5. **Whether the Company promptly corrected the violations and remedied the impacts.** Marsik Movers has not provided Staff with evidence that it corrected the violations.
6. **The number of violations.** Staff identified eight violation types with a total of 11 individual occurrences during its follow-up safety investigation of Marsik Movers. Of those violations, Staff identified three violation types with five individual occurrences that warrant penalties in accordance with the Commission's Enforcement Policy.
7. **The number of customers affected.** Marsik Movers reported traveling 45,000 miles in 2022. These safety violations presented a public safety risk.
8. **The likelihood of recurrence.** The Company incurred repeat violations despite prior technical assistance. Absent a significant commitment to prioritize safe operations, the violations are likely to reoccur.

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

On March 29, 2022, the Commission issued a Notice of Intent to Cancel the Company's household goods moving permit in Docket TV-220168 after the safety investigation of Marsik Movers resulted in a conditional safety rating. On April 5, 2022, the Company was penalized \$700 in Docket TV-220169 for safety violations of WAC 480-15-555, WAC 480-15-560, and WAC 480-15-570.

On May 6, 2022, the Commission entered Order 01, which consolidated Dockets TV-220168 and TV-220169, approved the Company's safety management plan, and extended the Company's provisional period. The Company paid the \$700 penalty in full.

10. **The Company's existing compliance program.** Marcel Filip is responsible for the Company's safety compliance program.

11. **The size of the Company.** The Company employs two drivers and operates two CMVs. The Company reported \$412,526 in gross revenue for 2022.

The Commission's Enforcement Policy provides that some Commission requirements are so fundamental to safe operations that the Commission will issue mandatory penalties for each occurrence of a first-time violation.¹ The Commission generally will assess penalties by violation category, rather than per occurrence, for first-time violations of those critical regulations that do not meet the requirements for mandatory penalties. The Commission will assess penalties for any equipment violation meeting the Federal Motor Carrier Safety Administration's "out-of-service" criteria and for repeat violations of critical regulations, including each occurrence of a repeat violation.

The Commission has considered these factors and determined that it should penalize Marsik Movers \$500 (Penalty Assessment), calculated as follows:

- Three violations of WAC 480-15-530 – Operating a motor vehicle without having in effect the required minimum levels of financial responsibility coverage. The Commission assesses a penalty of \$100 for each occurrence of this acute violation, for a total of \$300.
- One violation of WAC 480-15-590 – Failing to ensure that all equipment lease agreement conditions of WAC 480-15-590 are met prior to operating a leased motor vehicle. The Commission assesses a penalty of \$100 for this repeat violation.
- One violation of 49 C.F.R. § 390.19(b)(2) – Failing to file the MCS-150 registration form each 24 months according to the schedule. The Commission assesses a penalty of \$100 for this repeat violation.

¹ Docket A-120061 – Enforcement Policy of the Washington Utilities & Transportation Commission – Section V.

This information, if proven at a hearing and not rebutted or explained, is sufficient to support the Penalty Assessment.

Your penalty is due and payable now. If you believe any or all the violations did not occur, you may deny committing the violation(s) and contest the penalty through evidence presented at a hearing or in writing. Alternatively, if there is a reason for any or all the violations that you believe should excuse you from the penalty, you may ask for mitigation (reduction) of the penalty through evidence presented at a hearing or in writing. The Commission will grant a request for hearing only if material issues of law or fact require consideration of evidence and resolution in a hearing. Any request to contest the violation(s) or for mitigation of the penalty must include a written statement of the reasons supporting that request. Failure to provide such a statement will result in denial of the request. *See* RCW 81.04.405.

If you properly present your request for a hearing and the Commission grants that request, the Commission will review the evidence supporting your dispute of the violation(s) or application for mitigation in a Brief Adjudicative Proceeding before an administrative law judge. The administrative law judge will consider the evidence and will notify you of their decision.

You must act within 15 days after receiving this notice to do one of the following:

- Pay the amount due.
- Contest the occurrence of the violation(s).
- Admit the violations but request mitigation of the penalty amount.

Please indicate your selection on the enclosed form and submit it electronically through the Commission's web portal at <https://efiling.utc.wa.gov/Form> **within FIFTEEN (15) days** after you receive this Penalty Assessment.² If you are unable to use the web portal, you may submit it via email to records@utc.wa.gov. If you are unable to submit the form electronically, you may send a paper copy to the Washington Utilities and Transportation Commission, PO Box 47250, Olympia, Washington 98504-7250.

If you do not act within 15 days, the Commission may take additional enforcement action, including but not necessarily limited to suspending or revoking your certificate to provide regulated service, assessing additional penalties, or referring this matter to the Office of the Attorney General for collection.

DATED at Lacey, Washington, and effective February 8, 2023.

/s/Rayne Pearson
RAYNE PEARSON
Director, Administrative Law Division

² <https://efiling.utc.wa.gov/Form>.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT TV-230061

PLEASE NOTE: You must complete and sign this document and send it to the Commission within 15 days after you receive the Penalty Assessment. Use additional paper if needed.

I have read and understand RCW 9A.72.020 (printed below), which states that making false statements under oath is a class B felony. I am over the age of 18, am competent to testify to the matters set forth below and I have personal knowledge of those matters. I hereby make, under oath, the following statements.

1. **Payment of penalty.** I admit that the violations occurred and enclose \$500 in payment of the penalty.

2. **Contest the violation(s).** I believe that the alleged violation(s) did not occur for the reasons I describe below (**if you do not include reasons supporting your contest here, your request will be denied**):

a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision.

OR b) I ask for a Commission decision based solely on the information I provide above.

3. **Application for mitigation.** I admit the violations, but I believe that the penalty should be reduced for the reasons set out below (**if you do not include reasons supporting your application here, your request will be denied**):

a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision.

OR b) I ask for a Commission decision based solely on the information I provide above.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing, including information I have presented on any attachments, is true and correct.

Dated: _____ [month/day/year], at _____ [city, state]

Name of Respondent (company) – please print

Signature of Applicant

RCW 9A.72.020 "Perjury in the first degree."

- (1) A person is guilty of perjury in the first degree if in any official proceeding he or she makes a materially false statement which he or she knows to be false under an oath required or authorized by law.
- (2) Knowledge of the materiality of the statement is not an element of this crime, and the actor's mistaken belief that his or her statement was not material is not a defense to a prosecution under this section.
- (3) Perjury in the first degree is a class B felony.