

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

JFS TRANSPORT, INC. D/B/A
COAST MOVERS

Respondent.

DOCKET TV-180315

ORDER 01

COMPLAINT FOR PENALTIES;
NOTICE OF BRIEF ADJUDICATIVE
PROCEEDING

(Set for July 24, 2018, at 9:30 a.m.)

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

I. PARTIES

2 The Commission is an agency of Washington State authorized by state law to regulate the rates, services, facilities, and practices of public service companies, including motor freight carriers, household goods carriers, and solid waste collection companies under the provisions of Title 81 RCW.

3 JFS Transport, Inc. d/b/a Coast Movers (JFS Transport or Company) is a household goods carrier subject to regulation by the Commission under RCW Chapter 81.80.

II. BACKGROUND

4 Washington Utilities and Transportation Commission Staff (Staff) initiated this investigation because of a consumer's informal complaint submitted to the commission on March 20, 2017. The informal complaint alleged that in performing a regulated household goods move, JFS Transport had failed to provide a written estimate, failed to provide copies of required paperwork to the consumer, and failed to respond to a claim of damaged household goods. Based on this complaint and a previous complaint about the Company's business practices, Staff determined that an investigation was warranted.

5 During its investigation, Staff had several contacts with Jonathon Sheridan, owner of JFS Transport, and reviewed documents related to 45 intrastate moves conducted by the Company between February 1, 2017, and April 30, 2017. The documents reviewed included bills of lading and customer invoices. Mr. Sheridan did not complete a Table of

Measurement (Cube Sheet) or a written estimate for any of the 45 household goods moves that Staff reviewed. Staff determined that the Company violated multiple Commission rules, as described below.

III. JURISDICTION

- 6 The Commission has jurisdiction over this matter pursuant to RCW 80.01.040, RCW 81.04.070, RCW 81.04.110, RCW 81.04.230, RCW 81.04.380, RCW 81.80.130, RCW 81.80.330, RCW Chapter 81.80, and WAC Chapter 480-15.

IV. FIRST CAUSE OF ACTION

(56 violations of WAC 480-15-490 and Tariff 15-C, Items 205 and 230 for failure to follow the rates, terms, and conditions set forth in the Commission-published tariff)

- 7 The Commission, through its Staff, realleges the allegations contained in paragraphs 2-6 above.
- 8 WAC 480-15-490(3) requires household goods carriers to follow the rates, terms, and conditions authorized in the Commission-published tariff.
- 9 Under Tariff 15-C, Item 205, hourly rates include use of vehicle, equipment, and labor for receiving and/or delivering household goods; therefore, carriers may charge for operational expenses (such as fuel, taxes, and packing materials), but the cost to the consumer for these items must be incorporated into the hourly rate and may not be billed as a separate line item.
- 10 For shipments calculated using hourly rates, Tariff 15-C, Item 230(6) requires that carriers charge consumers an amount within the specified rate band.
- 11 Under Tariff 15-C, Item 230(3), the minimum charge for a shipment moving under hourly rates is one hour.
- 12 JFS Transport violated WAC 480-15-490(3) and Tariff 15-C, Items 205 and 230 on 36 occasions by charging customers for operational expenses as separate line items that were in addition to the hourly rate. These separate line item charges totaled \$3,324.50 in various fees. This results in 36 separate and distinct violations.
- 13 JFS Transport violated WAC 480-15-490(3) and Tariff 15-C, Item 230(6) on eight occasions for charging eight consumers in excess of the specified hourly rate band. This results in 8 separate and distinct violations.

- 14 JFS Transport violated WAC 480-15-490(3) and Tariff 15-C, Item 230(3) on 12 occasions for charging 12 customers for a three-hour minimum when the minimum charge for a shipment moving under hourly rates is one hour. This results in 12 separate and distinct violations.
- 15 The violations alleged in paragraphs 7 through 14 resulted in JFS Transport overcharging customers a total of \$3,324.50.

**V. SECOND CAUSE OF ACTION
(45 violations of WAC 480-15-630 and Tariff 15-C,
Item 85 for failure to provide written estimates)**

- 16 The Commission, through its Staff, realleges the allegations contained in paragraphs 2-15 above.
- 17 WAC 480-15-630 requires household goods carriers to provide a written estimate to every customer prior to moving a shipment of household goods and to issue a written supplemental estimate when required by Commission rule or tariff. The initial estimate may be a binding or nonbinding estimate.
- 18 WAC 480-15-630(7) requires that carriers complete the estimates as required by Tariff 15-C.
- 19 Tariff 15-C, Item 85(2) provides the required elements for all binding and non-binding estimates.
- 20 JFS Transport violated WAC 480-15-630 and Tariff 15-C on 45 occasions by failing to provide a written estimate in accordance with Commission rules and tariff requirements on all 45 moves reviewed by Staff. This results in 45 separate and distinct violations.

**VI. THIRD CAUSE OF ACTION
(45 violations of WAC 480-15-630(5) and Tariff 15-C,
Item 85(2)(g) for failure to provide cube sheet inventories)**

- 21 The Commission, through its Staff, realleges the allegations contained in paragraphs 2-20 above.
- 22 WAC 480-15-630(5) requires household goods carriers prior to a move to visually inspect the goods to be shipped, unless the customer completes a website calculation or hard-copy calculation sheet, and to provide a written estimate to the customer.

- 23 Tariff 15-C, Item 85(2)(g) requires that all estimates include a household goods cube sheet inventory of the items upon which the estimate is based and the estimated cubic footage for each item.
- 24 JFS Transport violated WAC 480-15-630(5) and Tariff 15-C, Item 85(2)(g) on 45 occasions by failing to provide a cube sheet inventory for all 45 moves reviewed by Staff. This results in 45 separate and distinct violations.

VII. FOURTH CAUSE OF ACTION
(45 violations of WAC 480-15-620(1) for failure to provide customers with a copy of the *Customer's Guild to Moving in Washington State*)

- 25 The Commission, through its Staff, realleges the allegations contained in paragraphs 2-24 above.
- 26 WAC 480-15-620(1) requires that carriers provide each customer a copy of the commission publication *Consumer Guide to Moving in Washington State* at the time the carrier provides the customer a written estimate.
- 27 JFS Transport violated WAC 480-15-620(1) on 45 occasions by failing to provide the commission publication *Consumer Guide to Moving in Washington State* to the customer for all 45 moves reviewed by Staff. This results in 45 separate and distinct violations.

VIII. FIFTH CAUSE OF ACTION
(45 violations of WAC 480-15-710 and Tariff 15-C, Item 95 for failure to properly complete bills of lading)

- 28 The Commission, through its Staff, realleges the allegations contained in paragraphs 2-27 above.
- 29 WAC 480-15-710(2) requires that household goods carriers issue a bill of lading for each shipment of household goods it transports and that household goods carriers give the customer a completed copy of the bill of lading used for the customer's shipment.
- 30 WAC 480-15-710(3) requires that the carrier include the information in a bill of lading as described in the Commission's tariff.
- 31 Tariff 15-C, Item 95(1) requires that both the carrier and the customer sign and date the bill of lading.
- 32 Tariff 15-C, Item 95(1)(h) requires that all bills of lading include a separate section of the form that indicates whether the associated estimate is binding or non-binding.

- 33 Tariff 15-C, Item 95(1)(k) requires that all bills of lading include a section, as described in the tariff, where the customer must select, by signing his or her initials, the type of loss and damage protection for the shipment.
- 34 Tariff 15-C, Item 95(1)(m) requires for shipment calculated using hourly rates that all bills of lading include the time the vehicle leaves the carrier's terminal and the time it returns to the terminal, or when the carrier was released to go to another customer, and the start, stop, and any interruption time for each employee involved in the move.
- 35 JFS Transport violated WAC 480-15-710 and Tariff 15-C, Item 95 on 45 occasions for failure to complete bills of lading with the requirements set forth in paragraphs 29 through 34 above. This results in 45 separate and distinct violations.

IX. SIXTH CAUSE OF ACTION

(2 violations of WAC 480-15-800(1) for failure to provide a dissatisfied customer with the information and forms necessary to file a complaint or claim)

- 36 The Commission, through its Staff, realleges the allegations contained in paragraphs 2-36 above.
- 37 WAC 480-15-800(1) requires carriers to provide any customer not satisfied with the carrier's service with all information and forms necessary to file a complaint or claim.
- 38 JFS Transport violated WAC 480-15-800(1) on two occasions for failure to provide a dissatisfied customer with the information and forms necessary to file a complaint or claim. This results in two separate and distinct violations.

X. SEVENTH CAUSE OF ACTION

(3 violations of WAC 480-15-610 for noncompliant advertisements)

- 39 The Commission, through its Staff, realleges the allegations contained in paragraphs 2-38 above.
- 40 WAC 480-15-610(1) requires carriers to include the Commission-issued permit number, name or trade name as recorded at the Commission, physical address and telephone number in any advertising for household goods moving services.
- 41 WAC 480-15-610(6) prohibits carriers from advertising services or rates and charges that conflict with those in the tariff.
- 42 JFS Transport violated WAC 480-15-610 on three occasions for failure to display in its advertisements the Company's Commission-issued permit number, by displaying an

address that is not on record with the Commission, and by advertising charges for supplies, fuel charge, and a three-hour minimum that are in conflict with the tariff. This results in three separate and distinct violations.

XI. APPLICABLE LAW

43 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.*

44 Under RCW 81.04.230, if the Commission finds that the public service company charged an amount for any service rendered in excess of the lawful rate in force at the time such charge was made, the Commission may order the public service company to refund the amount of overcharges.

XII. REQUEST FOR RELIEF

45 Staff requests that the Commission find that JFS Transport committed violations of the Commission rules and state laws set forth in the allegations above.

46 Staff requests that the Commission, pursuant to its authority under RCW 81.04.380, impose monetary penalties on JFS Transport for violations of Commission rules and state laws.

47 Staff requests that the Commission require the Company to refund excess charges to customers who were overcharged as set forth in the allegations above.

48 Staff further requests that the Commission order such other or further relief as appropriate under the circumstances.

XIII. PROBABLE CAUSE

49 Based on a review of Staff's investigation report and all supporting documents, 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 BRIEF ADJUDICATIVE PROCEEDING

50 Pursuant to RCW 34.05.482 and WAC 480-07-610, the Commission determines that a brief adjudicative proceeding is appropriate for determining whether the alleged violations occurred and, if so, the appropriate remedy for those violations.

- 51 **THE COMMISSION GIVES NOTICE that it will hold a brief adjudicative proceeding in this matter at 9:30 a.m., July 24, 2018, in Room 206, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.**
- 52 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.
- 53 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.
- 54 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. on July 17, 2018** and bring an original and three (3) copies to the hearing. Filing shall be in accordance with WAC 480-07-140 and – 145.
- 55 **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.**
- 56 The names and mailing addresses of all parties and their known representatives are as follows:

Complainant: Washington Utilities and Transportation
Commission
1300 S. Evergreen Park Drive SW
P.O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

Representative: Christopher Casey
Assistant Attorney General
1400 S. Evergreen Park Drive SW
P.O. Box 40128
Olympia, WA 98504-0128
(360) 664-1189
ccasey@utc.wa.gov

Respondent: JFS Transport, Inc.
d/b/a Cost Movers
14840 Hwy. 106
Belfair, WA 98528

57 Administrative Law Judge Marguerite Friedlander, from the Commission's
Administrative Law Division, will preside during this proceeding

58 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 Olympia, Washington, and effective June 20, 2018.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

Rayne Pearson
Administrative Law Judge
Director, Administrative Law Division

Inquiries may be addressed to:

Executive Director and Secretary
Washington Utilities and Transportation
Commission
Richard Hemstad Building
1300 S. Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

NOTICE

PLEASE NOTE: Hearing facilities are accessible to interested people with disabilities; that smoking is prohibited; and, 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.

The information needed to provide an appropriate interpreter or other assistance should be stated below and returned to Washington Utilities and Transportation Commission, Attention: Steven King, 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.: (____)_____