

BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of	)	DOCKET NO. TV-051608
	)	
PENALTY ASSESSMENT AGAINST	)	ORDER NO. 01
ADVANCE RELOCATION EXPERT,	)	
LLC, d/b/a A.R.E.	)	
	)	INITIAL ORDER GRANTING, IN
	)	PART, MITIGATION OF
	)	PENALTIES
.....	)	

1 **Synopsis:** *This order proposes to grant, in part, a petition for mitigation of penalties assessed against Advance Relocation Expert, LLC, reducing the penalty amount from \$2,100 to \$1,900.*

2 **Nature of Proceeding.** This matter is a request for mitigation of penalties assessed by the Commission against Advance Relocation Expert, LLC, d/b/a A.R.E. (Advance Relocation) for alleged violations of the Commission’s rules and tariff governing transportation of household goods.

3 **Appearances.** Commission Staff is represented by Assistant Attorney General Jennifer Cameron-Rulkowski. Advance Relocation is represented by its owner, Austine Thompson.

4 **Procedural history.** On November 1, 2005, the Commission assessed penalties on Advance Relocation in the amount of \$2,100.00, including a \$100 penalty for each of 21 alleged violations of the provisions of WAC 480-15, which requires household goods movers to: 1) conduct operations under the name shown on the company’s household goods permit (WAC 480-15-390);<sup>1</sup> 2) revise non-binding estimate forms to include the required section for remarks (WAC 480-15-

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<sup>1</sup> The text of the rules and Tariff 15-A is found in Exhibit 3, p. 28 et seq.

490(5) and Tariff 15-A);<sup>2</sup> 3) include on bills of lading the name of the consignee (480-15-490(5) and Tariff 15-A);<sup>3</sup> 4) show charges on the bill of lading that accurately reflect the rates contained in the tariff (WAC 480-15-490(5) and Tariff 15-A);<sup>4</sup> and 5) show on the bill of lading the exact address at which a shipment, or any part of a shipment, was loaded or unloaded (WAC 480-15-740(3) and Tariff 15-A).<sup>5</sup>

5 On November 8, 2005, Advance Relocation filed an Application for Mitigation of Penalties. Advance Relocation asks that the Commission dismiss or waive the penalties assessed against the company.

6 On November 28, 2005, Commission Staff filed its response to Advance Relocation's Application for Mitigation, opposing any mitigation of the penalties.

7 **Hearing.** The Commission convened a hearing on December 19, 2005, at Olympia, Washington before Administrative Law Judge Theodora M. Mace.

8 **Background.** Advance Relocation is a household goods moving company located in Seattle, Washington, with an additional office in Tacoma, Washington. In July 2002, the commission granted Advance Relocation permanent authority to move household goods.<sup>6</sup> For 2004, Advance Relocation reported gross intrastate operating revenues of approximately \$51,000.<sup>7</sup>

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<sup>2</sup> *Id.*, pp. 28-29; 32-37.

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

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*, pp. 31-37.

<sup>6</sup> Docket No. TV-041761; Exhibit 3, p. 7.

<sup>7</sup> Exhibit 3, p. 7.

- 9 In June 2004, Commission staff began an audit Advance Relocation's business practices, and in February 2005 prepared a report<sup>8</sup> showing that the company was out of compliance with a number of state laws, Commission rules or tariff requirements. In March 2005, staff provided the company with the 2005 Audit Report identifying the areas of non-compliance and recommending how the company could achieve compliance.
- 10 Advance Relocation provided the Commission with a compliance plan on March 21, 2005.
- 11 In August 2005, the Commission conducted a Post-Audit Review to determine whether Advance Relocation was following its compliance plan.<sup>9</sup> In this Review, staff determined that the company had failed to come into compliance in several areas and recommended penalties for violations.
- 12 The primary focus of the specific alleged violations is the company's failure to comply with requirements for estimate forms and for bills of lading. Household moving companies use estimate forms to inform their customers how much a given move may cost. Estimate forms can be either binding, non-binding, or supplemental.<sup>10</sup> Bills of lading are documents that contain all the information necessary to determine tariff rates and charges.<sup>11</sup> The Commission's authority to assess penalties for violations of these rules is set forth in RCW 81.04.405, which provides a penalty of \$100 for each violation of the statute or of "any order, rule regulation or decision of the commission." The specific violations alleged in the Penalty Assessment are discussed in the following sections of this initial order.

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<sup>8</sup> Exhibit 5, Business Practices Audit Report of Advance Relocation Expert, February 2005 (2005 Audit Report).

<sup>9</sup> Exhibit 3, 2005 Post-Audit Review of the business Practices of Advance Relocation Expert, October 2005 (Post-Audit Review, or Review).

<sup>10</sup> WAC 480-15-650 and Item 85 describes the specific information required on an estimate of charges.

<sup>11</sup> The content of bills of lading is governed by WAC 480-15-740 and Tariff 15-A, Item 95.

**1. Use of Incorrect Business Name.**

13 WAC 480-15-390 requires a carrier to conduct operations under the name shown on the company's household goods permit.<sup>12</sup> This alleged violation was first brought to Advance Relocation's attention after the 2004-2005 Staff audit.<sup>13</sup> Staff advised the company that it needed to correct the discrepancies in the name the company included on its various forms. The business name listed on the company's letterhead was "Advance Relocation Experts."<sup>14</sup> The bill of lading and estimate forms used by the company showed the name "Advanced Relocation Experts."<sup>15</sup> The name listed on the company's household goods permit is "Advance Relocation Expert, LLC."<sup>16</sup>

14 The company responded to Staff's criticism that the discrepancies in its name designation were the result of printer error and that the problem would be corrected by May 2005.<sup>17</sup>

15 Staff asserts that the company had not corrected the discrepancy by October 2005.<sup>18</sup> Because staff had warned the company of this problem and gave the company plenty of time to correct it, staff recommends no mitigation of the \$300 penalty.

16 Mr. Thompson argues that the names that appear on company documents are very similar, and therefore the violations are not significant.<sup>19</sup> He also states that it would be less expensive to simply have the business licensing department

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<sup>12</sup> Exhibit 3, p. 28.

<sup>13</sup> *Id.*, p. 9.

<sup>14</sup> *Id.*, pp. 9-10.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*, p. 10.

<sup>18</sup> *Id.*

<sup>19</sup> TR. 38-39.

change the name of his business than it would be to have all the forms reprinted. He pleads hardship because he has not been doing much business and is not making enough money to cover the expenses that reprinting would involve.

- 17 **Discussion and recommended decision.** Advance Relocation’s arguments are not persuasive. The company is clearly in violation of the requirement that its permit name must appear accurately on its documents, even though the company names that do appear are very similar to the name that appears on its permit. The Commission does not seek to impose unreasonable costs on small businesses and is sympathetic to Mr. Thompson’s claim that reprinting the documents with the correct name would be costly. However, reprinting the forms is not the only solution. There are others that may be less costly, including one that Mr. Thompson identified—changing the name of the company shown on the permit. The evidence shows that Staff advised Mr. Thompson of the problem, he was aware of it and agreed to fix it but didn’t. It is recommended that there be no mitigation of the \$300 penalty for violation of WAC 480-15-390.

## 2. “Remarks” Section on Written Estimates.

- 18 WAC 480-15-650 defines when a household goods carrier may provide an estimate, describes specific information required on a written estimate, and defines the retention period for estimates. Item 85(7)(e)(x) of Tariff 15-A establishes the need for a “Remarks” section on the company’s written estimate form.<sup>20</sup> Companies use this section to give special instructions or to identify agreements with the customer.<sup>21</sup>
- 19 Commission staff asserts that Advance Relocation has failed to include a “Remarks” section on its written estimate forms. Staff contends that, after the 2004-2005 audit, it advised the company of the requirement that a “Remarks”

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<sup>20</sup> There are at least three types of estimate forms: non-binding, binding, and supplemental.

<sup>21</sup> Exhibit 3, p. 11.

section be added to its estimate form.<sup>22</sup> Correspondence between company and staff after that audit demonstrated that Advance Relocation was unaware of the requirement.<sup>23</sup> When the company understood that the requirement, found in the tariff at Item 85(7)(e)(x), it agreed to revise its forms.<sup>24</sup> However, as of November 28, 2005, the company had only revised its binding and supplemental estimate forms but not its non-binding estimate form.<sup>25</sup> Staff recommends a penalty of \$100 for this violation.

20 In his request for mitigation, Mr. Thompson apparently forgot that he had already revised some of his forms to include a "Remarks" section. Mr. Thompson states that he had checked with other moving companies and they did "not have a clue" about the "Remarks" section, and that he had checked the commission's rules and "guide to running a moving company" and could find no information about the requirement.<sup>26</sup> However, Mr. Thompson said he would be glad to make the correction if someone at the commission would show him what to do.<sup>27</sup>

21 **Discussion and recommended decision.** Staff advised Mr. Thompson of the need for inclusion of a "Remarks" section on his company's estimate forms, and he did, in fact, included a "Remarks" section on his binding estimate supplemental estimate forms.<sup>28</sup> It is not clear why he did not revise the non-binding estimate form to include this section. However, he appears to have substantially complied with the audit requirement by revising two of his forms. It is recommended that the Commission mitigate the \$100 penalty for this

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<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> Commission Staff's Response to Advance Relocation Expert's Application for Mitigation.

<sup>26</sup> Advance Relocation's Application for Mitigation of Penalties, November 3, 2005.

<sup>27</sup> *Id.*

<sup>28</sup> Exhibit 2, pp. 4-5.

violation, encouraging Mr. Thompson to also revise the non-binding estimate form to include a "Remarks" section.

### 3. Tariff Rates and Charges.

- 22 WAC 480-15-740 requires the company to fill out the bill of lading so that it contains the information necessary to bill the customer the correct rates and charges. Item 95(2)(k) of Tariff 15-A requires the amount and type of any charges to be listed on the bill of lading with a full description of the charge. Item 95(2)(l) requires that each "accessorial" service performed and the charge for that service be shown as a separate line item on the bill of lading.
- 23 Staff contends that in the 2004-2005 audit, Advance Relocation's bills of lading failed to provide accurate and complete information identifying charges and rates that comply with the tariff. The 2005 Audit Report contains a description of the numerous instances on fourteen bills of lading where the company included unauthorized charges, such as the King County sales tax, or imposed charges that were not fully described, such as "s. charge."<sup>29</sup> Staff advised the company of these deficiencies<sup>30</sup> and the company stated that it would come into compliance.<sup>31</sup>
- 24 Staff now contends that Advance Relocation has not complied as promised. Staff alleges that the company committed eight violations of WAC 480-15-490(5) and Tariff 15-A, and recommends no mitigation of the \$800.00 penalty assessment. Staff alleges, for example, that the company charged one customer \$120 for a "Truck" under the Packing and Packing Materials section of the bill of lading, even though the tariff does not permit such a charge.<sup>32</sup>

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<sup>29</sup> Exhibit 5, p. 14.

<sup>30</sup> Exhibit 3, p. 18.

<sup>31</sup> *Id.*

<sup>32</sup> Exhibit 7, p. 1 (Invoice # 1984).

- 25 Mr. Thompson responded that he rented the truck to help one of his customers move.<sup>33</sup> He stated that the \$120 charge shown on the bill of lading in question was the amount he paid for the truck rental, which Advance Relocation in turn charged the customer.
- 26 Staff also alleges that for six of the bills of lading supplied by Mr. Thompson, there is a charge in the area marked "Transportation Valuation Charges" even though the customer chose the basic value protection for which there is no charge. Mr. Thompson responded that the charge assessed was a fuel surcharge, which he assessed because gas prices had doubled, though the Commission had not yet authorized use of the surcharge.<sup>34</sup> Mr. Thompson also stated that there was no specific place on the bill of lading for entry of the transport surcharge.<sup>35</sup>
- 27 **Discussion and recommended decision.** Mr. Thompson's arguments are unavailing. The Commission's responsibility is to regulate household goods carriers in the public interest.<sup>36</sup> The public interest, particularly the interest of citizens of Washington who require the services of a mover of household goods, requires that charges for those services be clearly set forth so that everyone knows what services are contracted for and what those services will cost. Staff advised Mr. Thompson of the requirement that bills of lading be filled out to provide correct and complete descriptions of charges for service. In spite of his promises to do so, Mr. Thompson failed to comply. No mitigation of the penalty assessment appears warranted.

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<sup>33</sup> Tr. 40-41.

<sup>34</sup> Tr 39-40; 48-49.

<sup>35</sup> *Id.*

<sup>36</sup> RCW 80.01.040(2).



**4. Consignee Name.**

28 Item 95(2)(c) of Tariff 15-A requires the bill of lading to show the exact name, address, and telephone number of the consignee (the person accepting delivery of the goods).

29 Commission Staff contends that Advance Relocation failed to list the name of the consignee on its bills of lading eight times.<sup>37</sup> Staff recommends an \$800 penalty. Because Staff has reminded the company of this requirement periodically since 2002, Staff opposes any mitigation of this penalty.<sup>38</sup>

30 Mr. Thompson responded that he usually writes in the consignee name but that he has not been able to focus on his business because he is doing other part-time work.<sup>39</sup> He also stated that if the consignee is the same as the shipper, he will write in "same" or will not write in anything for the delivery customer's name, as it seems to be redundant and unnecessary.<sup>40</sup>

31 **Discussion and recommended decision.** Mr. Thompson's response is unpersuasive. His failure to fill in consignee information is a clear violation of the tariff requirement. The Commission's interest in protecting the public requires scrupulous attention to details such as identification of the consignee on the bill of lading. There is no cost to Mr. Thompson for complying with this requirement and he has given no convincing reason why these violations occurred. It is recommended that there be no mitigation of these penalties.

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<sup>37</sup> Exhibit 5, pp. 22-23, and Exhibit 6.

<sup>38</sup> Staff Response, p. 5, Attachment A, p. 12.

<sup>39</sup> Application for Mitigation.

<sup>40</sup> TR 40.

### 5. Origin, Destination, and Other Required Addresses.

32 WAC 480-15-740(3) requires that the bill of lading show the exact address at which the shipment, or any part of that shipment, was loaded or unloaded. Item 95(2)(d) requires the exact location of the origin pickup point, any split pickups, stops to partially load or unload, and the final destination point of the shipment.

33 Staff recommends a penalty of \$100 for failure of Advance Relocation to list the exact address at which a shipment, or any part of the shipment was loaded or unloaded on a bill of lading for Mr. Todd Haley.<sup>41</sup> For this bill of lading, Mr. Thompson failed to include a destination address for the move.

34 Mr. Thompson explained that he merely loaded a truck for Mr. Haley and did not transport the goods to any other location.<sup>42</sup>

35 **Discussion and recommended decision.** Mr. Thompson's explanation shows that he did not violate the tariff as staff alleges, because he did not perform a move from one location to another. While it would have been preferable for him to fill out the bill of lading in such a way as to avoid any question as to what happened, it appears that no violation occurred and mitigation of this portion of the penalty assessment is justified.

### 6. Payment of the Penalty Assessment.

36 Mr. Thompson requested that, should the Commission decline to mitigate the penalty assessment, he be permitted to pay the penalty in time installments. Commission Staff did not oppose a payment plan.

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<sup>41</sup> Exhibit 8.

<sup>42</sup> TR 40-41.

37 **Discussion and recommended decision.** It is recommended that the Commission grant Mr. Thompson's request for a time payment plan. Advance Relocation is a small business and Mr. Thompson testified that business has been slow lately. Allowing Advance Relocation to pay its penalty over time is reasonable and would serve the public interest. Staff and the company should negotiate a time payment plant, not to extend longer than one year. The negotiated payment plan should be filed with the Commission within 30 days of the date of a final order in this case.

### FINDINGS OF FACT

- 38 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington charged bylaw with the regulation of household goods moving companies, including Advance Relocation.
- 39 (2) The Commission assessed a penalty of \$2,100 against Advance Relocation for 21 alleged violations of WAC 480-15 for failure to: 1) conduct operations under the name shown on the company's household goods permit (WAC 480-15-390);<sup>43</sup> 2) revise non-binding estimate forms to include the required section for remarks (WAC 480-15-490(5) and Tariff 15-A);<sup>44</sup> 3) include on bills of lading the name of the consignee (480-15-490(5) and Tariff 15-A);<sup>45</sup> 4) show charges on the bill of lading that accurately reflect the rates contained in the tariff (WAC 480-15-490(5) and Tariff 15-A);<sup>46</sup> and 5) show on the bill of lading the exact address at which a shipment, or any part of a shipment, was loaded or unloaded (WAC 480-15-740(3) and Tariff 15-A).<sup>47</sup>

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<sup>43</sup> The text of the rules and Tariff 15-A is found in Exhibit 3, p. 28 et seq.

<sup>44</sup> *Id.*, pp. 28-29; 32-37.

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*, pp. 31-37.

- 40 (3) On November 8, 2005, Advance Relocation filed an Application for Mitigation of Penalties.
- 41 (4) On November 28, 2005, Commission staff filed a response to the Application for Mitigation, opposing any mitigation of penalties.
- 42 (5) Advance Relocation showed that it revised two of its estimate forms to include a "Remarks" section.
- 43 (6) Advance Relocation showed that it did not perform a household goods move for customer Todd Haley and thus did not violate WAC 480-15-740(3) and Item 95(2)(d).
- 44 (7) Advance Relocation otherwise failed to show why the penalties assessed should be mitigated.
- 45 (8) Advance Relocation's request for a time payment plan for the remaining penalty assessment is reasonable.

#### CONCLUSIONS OF LAW

- 46 (1) The Commission has jurisdiction over this matter and the parties to this proceeding.
- 47 (2) Advance Relocation has shown why two of the penalty assessments, totaling \$200, should be mitigated.
- 48 (3) Advance Relocation failed to show why any of the remaining penalty assessments should be mitigated.

- 49 (4) The penalties assessed against Advance Relocation for violations of WAC  
480-15 should be reduced from \$2,100 to \$1,900.
- 50 (5) Advance Relocation should be granted the opportunity to pay the penalty  
assessment over a one year period.

### ORDER

51 IT IS ORDERED THAT The penalty of \$2,100 assessed against Advance  
Relocation is mitigated in the amount of \$200 and thereby reduced to \$1,900, to  
be paid according to the terms of a time payment plan agreed to between staff  
and the company and submitted to the Commission within 30 days of the final  
order in this proceeding.

DATED at Olympia, Washington and effective this 26th day of January, 2006.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

THEODORA M. MACE  
Administrative Law Judge

### NOTICE TO THE PARTIES

This is an Initial Order. The action proposed in this Initial Order is not effective until entry of a final order by the Utilities and Transportation Commission. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below.

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a

Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order any party may file a *Petition to Reopen* a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

One copy of any Petition or Answer filed must be served on each party of record, with proof of service as required by WAC 480-07-150(8) and (9). An Original and twelve copies of any Petition or Answer must be filed by mail delivery to:

Attn: Carole J. Washburn, Executive Secretary  
Washington Utilities and Transportation Commission  
P.O. Box 47250  
Olympia Washington 98504-7250.