

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Penalty Assessment)	DOCKET TV-111065
Against)	
)	ORDER 01
ACTION MOVING SERVICES, INC.,)	
)	INITIAL ORDER APPROVING
In the Amount of \$2,300)	SETTLEMENT AGREEMENT;
)	MITIGATING PENALTY TO \$1,500;
)	SUSPENDING PENALTY FOR ONE
)	YEAR ON CONDITION OF FUTURE
)	COMPLIANCE AND TRAINING
.....)	

1 ***Synopsis.** This is an Administrative Law Judge’s Initial Order that is not effective unless approved by the Commission or allowed to become effective as described in the notice at the end of this Order. If this Initial Order becomes final, the parties’ proposed Settlement Agreement will be approved and the penalty assessed against Action Moving Services, Inc., will be mitigated from \$2,300 to \$1,500. The entire penalty will be suspended for a period of one year from the date of this order subject to the condition that Action Moving (a) sends its employee Scott Hoyt to a Commission-sponsored household goods industry training session scheduled for October 12, 2011, and (b) complies for a full year with all statutes and regulations governing the household goods industry.*

2 **Penalty.** On July 15, 2011, the Washington Utilities and Transportation Commission (Commission) issued Penalty Assessment TV-111065 against Action Moving Services, Inc. (Action Moving or Company) in the amount of \$2,300, alleging multiple violations of Washington Administrative Code (WAC) 480-15, which specifies how household goods moving companies may issue estimates and supplemental estimates, and multiple violations of Tariff 15-C, which identifies the rates and fees household goods companies may charge their customers, as well as the items a company must include on its estimate forms and bills of lading.

3 On July 28, 2011, Action Moving filed with the Commission an application for mitigation, admitting the violation and seeking a hearing before an administrative law

judge. In a separate addendum to its mitigation request, Action Moving explained that it sought mitigation “given the progress that our company has made through several audits and trainings conducted by the UTC.” Commission Staff did not file a response to Action Moving’s request for a mitigation hearing.

4 **Hearing.** Pursuant to RCW 34.05.482 and WAC 480-07-610, the Commission determined that a brief adjudicative proceeding (BAP) was appropriate for determining whether the penalty should be mitigated and what actions might be necessary for Action Moving to maintain future compliance, pursuant to the statutory provisions of RCW 81.04.

5 On August 16, 2011, the Commission issued a Notice of Brief Adjudicative Proceeding and set September 6, 2011, at 1:30 p.m. as the time for the parties to make oral statements concerning their positions.

6 **Settlement.** On September 2, 2011, the parties notified the Commission that they had reached a full settlement in principle and indicated they would be reducing it to writing prior to the scheduled hearing date. On September 9, 2011, the parties filed their proposed Settlement Agreement and supporting Narrative, agreeing to reduce the penalty imposed on Action Moving from \$2,300 to \$1,500 and to suspend that entire penalty for one year.

7 As part of the Settlement, Action Moving admits that it violated Commission rules and Tariff 15-C.¹ Further, Action Moving agrees to a one-year suspended penalty in the amount of \$1,500.

8 Commission Staff and Action Moving agree that the \$1,500 penalty should be suspended for one full year from the date of this order, and waived thereafter, if Action Moving sends one of its employees, Mr. Scott Hoyt, to a Commission-conducted rule and tariff training to be held in Olympia, Washington, next month. Further, the suspension is conditioned on the company remaining in compliance with all Commission laws and rules set governing the household goods industry.²

¹ Settlement Agreement, ¶ 5, and Narrative, ¶ 8. The company admits to repeated violations of WAC 480-15-630 (failure to properly complete an estimate) and WAC 480-15-710 (failure to use a proper bill of lading format and failure to properly complete a bill of lading).

² Settlement Agreement, ¶¶ 7 and 8.

Commission Staff will review Action Moving's business practices in one year and recommend at that time whether the suspended penalty should be imposed.³

9 **Evaluation of Settlement.** WAC 480-07-750(1) states in part: "The commission will approve settlements when doing so is lawful, the settlement terms are supported by an appropriate record, and when the result is consistent with the public interest in light of all the information available to the commission." Thus, the Commission considers the individual components of the Settlement Agreement under a three-part inquiry, asking:

- Whether any aspect of the proposal is contrary to law.
- Whether any aspect of the proposal offends public policy.
- Whether the evidence supports the proposed elements of the Settlement Agreement as a reasonable resolution of the issue(s) at hand.

10 The Commission must determine one of three possible results:

- Approve the proposed settlement without condition.
- Approve the proposed settlement subject to conditions.
- Reject the proposed settlement.

11 The Settlement terms proposed by the parties are consistent with law and policy, and reasonably resolve all issues in this proceeding. The parties made concessions relative to their respective litigation positions to arrive at end results that are supported by the evidence in the record. Action Moving admits certain violations of WAC 480-15 and Tariff 15-C, commits to future compliance with all Commission rules and statutes, and receives a reduction in the amount of the original penalty. Commission Staff achieves its goal of bringing a company into compliance and, through use of a suspended penalty, does so without undue financial impact to the business.

12 **Commission Decision.** The Settlement Agreement is approved without condition. Action Moving has taken responsibility for ensuring full and accurate completion of estimate sheets and bills of lading. The original penalty of \$2,300 should be mitigated and is reduced to \$1,500. This penalty will be suspended for a period of one year from the date of this order subject to the condition that Action Moving

³ *Id.* ¶ 6.

promptly sends its employee Mr. Scott Hoyt to a Commission training session and complies with all laws and regulations governing household goods movers for a year.

- 13 Commission Staff shall conduct a review of Action Moving's business practices on or before Friday, September 7, 2012, to ensure compliance with the terms of this order. Commission Staff shall then recommend whether the suspended penalty should be imposed or allowed to expire and be waived in accordance with the terms of the Settlement Agreement and this order. If Commission Staff fails to timely file its recommendation, the penalty shall be waived one year from the date of this order.

ORDER

THE COMMISSION ORDERS:

- 14 (1) Action Moving Services, Inc., is assessed a mitigated penalty of \$1,500. The penalty is suspended in its entirety until one year from the date of this Initial Order, and waived thereafter, provided Action Moving Services, Inc., sends its employee Mr. Scott Hoyt to a Commission training session and complies with the laws and regulations governing the household goods industry for one year.
- 15 (2) Commission Staff shall conduct a review of Action Moving's business practices on or before Friday, September 7, 2012, and, as described above, timely recommend to the Commission's Executive Director and Secretary whether the suspended penalty should be imposed or waived in accordance with the terms of the Settlement Agreement.
- 16 (3) The Commission retains jurisdiction over the subject matter and the parties to this proceeding to effectuate the terms of this Order.

DATED at Olympia, Washington, and effective September 14, 2011.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

ADAM E. TOREM
Administrative Law Judge

NOTICE TO PARTIES

This is an Initial Order. The action proposed in this Initial Order is not yet effective. 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. If you agree with this Initial Order, and you would like the Order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

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 ten (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.

RCW 80.01.060(3) provides that an Initial Order will become final without further Commission action if no party seeks administrative review of the Initial Order and if the Commission fails to exercise administrative review on its own motion.

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 **seven (7)** copies of any Petition or Answer must be filed by mail delivery to:

Attn: David W. Danner, Executive Director and Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, Washington 98504-7250