

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND)	DOCKET TV-121722
TRANSPORTATION COMMISSION,)	
)	
Complainant,)	ORDER 01
)	
v.)	
)	
3 RD GENERATION MOVERS AND)	INITIAL ORDER DISMISSING
HAULING, A+ ALWAYS MOVING,)	CERTAIN COMPLAINTS,
INC., AA STAR TRANSFER CO., INC.,)	DISMISSING OTHER
ALWAYS ABLE MOVING SERVICE,)	COMPLAINTS SUBJECT TO
LLC, ARAYS MOVING SERVICE, LLC,)	CONDITION, AND CANCELLING
GRAYPORT TRANSFER & STORAGE)	PERMITS
CO., INC., THUNDER MOVERS, LLC)	
)	
Respondents.)	
)	
.....)	

BACKGROUND

- 1 This proceeding involves a complaint seeking cancellation of the permits of seven household goods carriers for failure to submit annual reports for 2011 and for failure to pay regulatory fees for 2012.
- 2 Jennifer Cameron-Rulkowski, Assistant Attorney General, Olympia, Washington represented the Washington Utilities and Transportation Commission’s (Commission) regulatory staff (Commission Staff or Staff).¹ None of the companies named in the complaint appeared at the hearing.
- 3 On December 31, 2012, the Commission issued a complaint against 3rd Generation Movers and Hauling (3rd Generation), A+ Always Moving, Inc. (A+), AA Star Transfer

¹ In a formal proceeding, such as this, the Commission’s regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners’ policy and accounting advisors do not discuss the merits of the proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. See RCW 34.05.455.

Co., Inc. (AA Star), Always Able Moving Service, LLC (Always Able), Arays Moving Service, LLC (Arays), Grayport Transfer & Storage Co., Inc. (Grayport), and Thunder Movers, LLC (Thunder Movers). The complaint alleges that the companies each failed to file required annual reports for 2011 and also failed to pay regulatory fees for 2012. The Commission set this matter for hearing and notified all of the respondents that any party that failed to attend or participate in the hearing could be held in default.

4 After notice to the parties, the matters alleged in the complaint were the subject of a hearing before the Commission on February 4, 2013, in Olympia, Washington. During the hearing, Staff presented the testimony of Mathew Perkinson, Compliance Investigator. None of the companies named in the complaint appeared or presented evidence.

5 Evidence at the hearing showed that all of the respondents are household goods carriers, which are common carriers and public service companies under RCW 81.04.010(11) and (16).² The evidence also showed that all of the respondents received notice of the hearing and that none of them appeared.³ Staff asked the Commission to declare 3rd Generation, AA Star, Always Able, and Grayport in default.⁴

6 At the hearing, Staff moved to dismiss the complaints against Arays and A+, because by the time of the hearing, these companies had filed their annual report, paid their outstanding regulatory fees, and also paid their penalties.⁵ Staff also moved to dismiss the complaint against Thunder Movers, because Thunder Movers' permit was cancelled earlier, in Docket TV-121626.

7 Staff next moved to dismiss the complaints against AA Star and Grayport, on the condition that they pay the statutory penalty assessed against them. Commission Staff testified that AA Star and Grayport had filed their annual reports and paid their outstanding regulatory fees, and were assessed but had not yet paid statutory penalties.⁶

² TR at 11: 1–25 and 12: 1–17.

³ TR at 12: 18–25 and 13: 1; *see also*, Perkinson, Exh. No. 2.

⁴ TR at 7: 24–25 and 8: 1–3.

⁵ TR at 14: 2–25; 15:1–8; 18: 25; 17: 14-24; 19: 1–25; and 20: 1–8.

⁶ TR at 15: 18–25; 16: 1–2; 20: 24–25; 21: 1–25; and 22: 1–21.

8 With respect to 3rd Generation and Always Able, Staff requested the Commission to find 3rd Generation and Always Able in default, and to cancel their household goods carrier certificates. The record reflects that these companies, like all of the respondents, were mailed notice of the hearing by first-class mail at their last known addresses and failed to appear or otherwise respond to the complaint.⁷ Staff requested that the Commission receive evidence regarding the substantive issues set forth in the complaint against 3rd Generation and Always Able.

9 Mr. Perkinson testified that the Financial Services section of the Commission provides him with a list of all companies that are delinquent in filing their annual reports or paying their regulatory fees. The list is generated by the Commission's Annual Report Tracking System (ARTS). Mr. Perkinson reviewed ARTS data for each company named in the complaint as late as the morning of the hearing, February 4, 2013, and determined that neither 3rd Generation nor Always Able had filed its annual report for 2011 or paid its outstanding annual fee and penalty.⁸

10 On February 28, 2013, 3rd Generation filed a letter with the Commission in which the company requested that the Commission not cancel its permit. 3rd Generation filed its annual report and regulatory fee, but did not pay the statutory penalty assessed against it.

DISCUSSION AND DECISION

11 The issue in this case is whether the companies complained against have filed their annual reports, paid their annual regulatory fees, and if applicable, paid their statutory penalties. If the companies have not fulfilled their obligations, the Commission must determine whether or not to cancel their household goods carrier permits.

12 Under RCW 81.04.080, every common carrier operating in Washington is required to file an annual report that sets forth certain information about the company's operations during the preceding year. In addition, under RCW 81.80.321, every common carrier must pay an annual regulatory fee on or before the date specified by the Commission. WAC 480-15-480 requires all common carriers to file their annual reports and pay regulatory fees by May 1 of each year. The Commission may cancel a company's

⁷ TR at 8: 4–11, *see also*, Perkinson, Exh. 2.

⁸ TR at 13: 6–10.

permit for good cause, which includes, but is not limited to, the failure to file an annual report or pay regulatory fees. WAC 480-15-450. In addition, and germane to this proceeding, any party that fails to appear at a Commission hearing may be held in default. RCW 34.05.440 and WAC 480-07-450.

- 13 A+ and Arays are public service companies as defined in RCW 81.04.010. A+ and Arays provide household goods carrier services in Washington for compensation and are required to submit annual reports to the Commission and pay regulatory fees under RCW 81.04.080 and 81.80.321. A review of the Commission's files and records shows that A+ and Arays failed to timely file their annual reports due on May 1, 2012, and failed to pay their regulatory fees; however, by February 4, 2013, A+ and Arays filed their reports, paid their regulatory fees and penalties. Accordingly, the complaints against A+ and Arays should be dismissed.
- 14 Thunder Movers is a public service company as defined in RCW 81.04.010. Thunder Movers provides household goods carrier services in Washington for compensation and is required to submit annual reports to the Commission and pay regulatory fees under RCW 81.04.080 and 81.80.321. A review of the Commission's files and records shows that Thunder Movers' household goods carrier certificate was cancelled on or about November 16, 2012, in Docket TV-121626. Accordingly, because it is moot, the complaint against Thunder Movers should be dismissed.
- 15 AA Star and Grayport are public service companies as defined in RCW 81.04.010. AA Star and Grayport provide household goods carrier services in Washington for compensation and are required to submit annual reports to the Commission and pay regulatory fees under RCW 81.04.080 and 81.80.321. A review of the Commission's files and records shows that AA Star and Grayport failed to timely file their annual reports due on May 1, 2012, and failed to pay their regulatory fees; however, by February 4, 2013, the companies had filed their reports and paid their regulatory fees. Nonetheless, AA Star and Grayport have not paid the statutory penalties assessed against them. Accordingly, the complaints against AA Star and Grayport will be dismissed on the condition that each company pays its penalty within 20 days of the date of this order.

- 16 3rd Generation and Always Able are public service companies as defined in RCW 81.04.010. 3rd Generation and Always Able provide household goods carrier services in Washington for compensation and are required to submit annual reports to the Commission and pay regulatory fees under RCW 81.04.080 and 81.80.321. A review of the Commission's files and records shows that 3rd Generation and Always Able failed to timely file their annual reports due on May 1, 2012, and failed to pay their regulatory fees. Accordingly, 3rd Generation and Always Able's household goods carrier permits should be cancelled.
- 17 After the conclusion of the evidentiary hearing, 3rd Generation submitted a letter in which it claimed that it did not receive its annual report form and stated it has now filed its annual report and paid its regulatory fee. The Commission will construe this letter as a request to reopen the record to admit and consider this additional evidence.
- 18 The Commission declines to exercise its discretion to reopen the record in this proceeding. The filing requirements in the Commission's rules are unambiguous, and 3rd Generation's excuses for failing to comply with those requirements for almost 10 months are neither credible nor convincing. The Commission repeatedly reminded 3rd Generation of its statutory obligations, and Staff testified that these notices were not returned. 3rd Generation failed to make the requisite filings prior to the evidentiary hearings, and the Commission will rely on that fact to cancel the company's permit.

FINDINGS OF FACT

- 19 The Commission now makes and enters the following summary findings of fact, incorporating by reference pertinent portions of the preceding detailed findings:
- 20 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, practices, and accounts of public service companies, including household goods carriers.
- 21 (2) All of the respondents were properly served with the complaint and notice of hearing. None of the respondents appeared at the hearing.
- 22 (3) Each of the respondents failed to timely file an annual report for 2011 and also failed to timely pay regulatory fees for 2012.

- 23 (4) At the time of the hearing in this matter, each of the respondents fell into one of the following four categories: (1) filed annual report and paid annual fee and penalty; (2) permit cancelled in previous Commission docket; (3) filed annual report, paid annual fee, not paid penalty; and (4) failed to file annual report and also failed to pay annual fee.

CONCLUSIONS OF LAW

24 Having discussed above all matters material to this decision, and having stated detailed findings, conclusions, and the reasons therefor, the Commission now makes the following summary conclusions of law incorporating by reference pertinent portions of the preceding detailed conclusions:

- 25 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and the parties to, this proceeding. The respondents are public service companies under RCW 81.04.010.
- 26 (2) All of the respondents are in default of the Commission's Complaint under RCW 34.05.440 and WAC 480-07-450.
- 27 (3) The Commission may, after notice and opportunity for hearing, cancel the permits of household goods carriers for good cause, including but not limited to failure to timely file annual reports and pay regulatory fees.
- 28 (4) A+ and Arays have filed annual reports and paid annual fees and applicable penalties, and are in compliance with RCW 81.04.080 and RCW 81.80.321. The complaint against them will be dismissed.
- 29 (5) The Commission previously cancelled Thunder Mover's certificate in Docket TV-121626. The complaint against Thunder Movers is moot and will be dismissed.
- 30 (6) AA Star and Grayport have filed annual reports and paid annual fees, but have not paid applicable penalties. The complaint against them will be dismissed on the condition that they pay the penalties assessed against them on or before 20 days after the date of this order.

- 31 (7) 3rd Generation and Always Able have not filed annual reports or paid annual fees and applicable penalties, and are not in compliance with RCW 81.04.080 and RCW 81.80.321. Their household goods carrier permits will be cancelled.

ORDER

THE COMMISSION ORDERS THAT:

- 32 (1) All of the respondents are in default of the Commission's Complaint.
- 33 (2) The complaints against A+, Arays, and Thunder Movers are dismissed.
- 34 (3) The complaints against AA Star and Grayport Transfer are dismissed on the condition that each company pays its statutory penalty on or before 20 days after the date of this order. If such penalties are not timely paid, the Commission will cancel the permit.
- 35 (4) The household goods carrier certificates of 3rd Generation and Always Able are cancelled for good cause.

DATED at Olympia, Washington, and effective March 12, 2013.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

STEPHANY A. WATSON
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 20 days after the entry of this initial order to file a petition for administrative review (Petition for Review). What must be included in any Petition for Review and other requirements for it are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an answer (Answer) to a Petition for Review within 10 days after service of the Petition for Review.

WAC 480-07-830 provides that before the Commission enters 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. The Commission will not accept answers to a petition to reopen unless the Commission requests answers by written notice.

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 for Review 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). To file a Petition for Review or Answer with the Commission, you must file an original and three copies of your Petition for Review or Answer by mail delivery to:

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