**BEFORE THE WASHINGTON**

**UTILITIES AND TRANSPORTATION COMMISSION**

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| In the Matter of Determining the Proper Carrier Classification of, and Complaintfor Penalties against:dexter Petrie and Dexter Wendler d/b/a Budget Family Moving. . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .  | ))))))))))))) | DOCKET TV- 151655ORDER 03INITIAL ORDER CLASSIFYING RESPONDENT AS HOUSEHOLD GOODS CARRIER; ORDERING RESPONDENT TO CEASE & DESIST; IMPOSING AND SUSPENDING PENALTIES ON CONDITION OF FUTURE COMPLIANCE |

**BACKGROUND**

1. The Washington Utilities and Transportation Commission (Commission) initiated this special proceeding to determine if Dexter Petrie and Dexter Wendler d/b/a Budget Family Moving (Budget Family Moving or Company) has engaged, and continues to engage, in business as a common carrier for transportation of household goods for compensation within the state of Washington without possessing the permit required for such operations.The Commission, through its regulatory staff (Staff), also complains against the Company, alleging two violations of RCW 81.80.075(1), and requests that the Commission impose penalties of $2,500 per violation for a total of $5,000.[[1]](#footnote-1)
2. The Commission convened an initial hearing in this docket on October 15, 2015, before Administrative Law Judge Rayne Pearson. Dexter Petrie appeared on behalf of the Company and requested a separate hearing to contest the violations. The Commission scheduled an evidentiary hearing, which it held on November 10, 2015, before Judge Pearson.
3. At the hearing, Staff presented documentary evidence and the testimony of compliance investigator Megan Banks. Dexter Petrie testified for the Company.
4. Staff explained that Budget Family Moving first came to its attention in May 2015 after twice observing and photographing a large moving truck in Tacoma, Washington, with “Budget Family Moving” and two phone numbers printed on the side. A Google search for the first phone number, 253-353-1251, produced an advertisement on Fixr.com that lists Dexter Petrie as the contact for Budget Family Moving. A reverse search for the same number produced a listing for Dexter Wendler on Woodlawn Avenue in Tacoma. A reverse search for the second phone number, 253-517-5773, produced listings for Dexter Petrie at both Mr. Wendler’s address in Tacoma and a second address in Federal Way.
5. Ms. Banks testified that on June 8, 2015, she sent a text message to 253-353-1251 and received confirmation that the number belonged to Budget Family Moving. She requested an estimate for a move within Tacoma and received a quote of $80 per hour from someone who identified themselves as “Dexter.”
6. Mr. Petrie testified that although his father, Dexter Wendler, bought him the truck described by Staff so that he could start a moving business, he has never been involved in the Company’s operations. Instead, Mr. Petrie explained that he has been operating a medical marijuana clinic, which consumes most of his time. Mr. Petrie testified that Mr. Wendler operates Budget Family Moving, that the Company’s Facebook page was created by his cousin, and that although he placed the ad for Budget Family Moving on Fixr.com, he does not understand why it is still active. In response to questions from the bench, Mr. Petrie stated he was unwilling to take steps to deactivate the ad on Fixr.com. Mr. Petrie presented one exhibit, which was admitted into the record without objection, documenting that the 253-517-5773 phone number was disconnected on April 13, 2014.
7. Jennifer Cameron-Rulkowski, Assistant Attorney General, Olympia, Washington, represents Staff.[[2]](#footnote-2) Dexter Petrie*,* Tacoma, Washington, represents Budget Family Moving, *pro se*.

**DISCUSSION AND DECISION**

1. **Classification as Household Goods Carrier.** RCW 81.04.510, which authorizes this special proceeding to determine whether Mr. Petrie and Mr. Wendler, doing business as Budget family Moving, are engaging in business or operating as a household goods mover in Washington without the requisite authority, places the burden of proof on the Respondent to demonstrate that its acts or operations are not subject to the provisions of RCW Chapter 81.
2. Staff’s exhibits show that Budget Family Moving holds itself out in advertising on the Internet as a household goods mover, and that Mr. Petrie is listed as the Company contact person on at least one of those advertisements.
3. Although Mr. Petrie does not deny that the Company is performing household goods moves, he denies any current involvement in the Company’s operations. Mr. Petrie conceded, however, that both the Company and the truck were originally his. Mr. Petrie also failed to produce any witnesses or evidence to support his testimony that his father, Dexter Wendler, is solely responsible for the Company’s operations. Mr. Petrie’s only exhibit was a document from Comcast demonstrating that one of the Company’s two phone numbers has been permanently disconnected. This alone does not absolve Mr. Petrie of responsibility for the Company’s operations. Accordingly, Mr. Petrie was unable to rebut the inferences reasonably drawn from Ms. Banks’s testimony and exhibits that, doing business as Budget Family Moving, he has advertised and offered to conduct business as a household goods carrier.
4. The record shows that on two occasions, Budget Family Moving offered to perform a household goods move, and that Budget Family Moving continues to advertise as a household goods mover.
5. The Commission finds on the basis of this evidence that Budget Family Moving is conducting business that requires Commission approval without the necessary operating authority. The Commission accordingly concludes that it should and must order Mr. Petrie, Mr. Wendler, and Budget Family Moving to cease and desist from such conduct, as required by RCW 81.04.510.[[3]](#footnote-3)
6. **Penalty.** RCW 81.80.075 requires that the Commission consider the carrier’s willingness to comply with the requirements of RCW 81.80.070 and the Commission’s rules, and the carrier’s compliance history in deciding the amount of penalty to be imposed per violation. At hearing, Staff recommended the Commission impose the $5,000 penalty sought in the Complaint, but suspend a $4,500 portion of the penalty for a period of two years, and then waive it, conditioned on the Company refraining from further operations as a household goods carrier without first obtaining the required permit from the Commission.
7. Considering the factors identified in RCW 81.80.075, the Commission determines that Mr. Petrie and Mr. Wendler should be penalized for an amount that will both punish the their wrongdoing and encourage them to either permanently withdraw from the business of moving household goods in Washington or obtain the required authority to do so. Accordingly, we adopt Staff’s recommendation to impose the entire $5,000 penalty sought in the complaint and suspend a $4,500 portion for a period of two years contingent on Mr. Petrie, Mr. Wendler, and Budget Family Moving refraining from further operations as a household goods carrier without first obtaining the required permit. The $500 portion of the penalty due and payable immediately punishes the Company’s past conduct, while the $4,500 suspended portion of the penalty provides an incentive for compliance going forward.

**FINDINGS AND CONCLUSIONS**

1. (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington vested by statute with authority to regulate persons engaged in the business of transporting household goods for compensation over public roads in Washington.
2. (2) The Commission has jurisdiction over the subject matter of this proceeding and over Budget Family Moving.
3. (3) Dexter Petrie and Dexter Wendler are the owners and operators of Budget Family Moving.
4. (4) On at least one occasion, Budget Family Moving offered to transport household goods within the state of Washington without first having obtained a household goods carrier permit from the Commission, in violation of RCW 81.80.075.
5. (5) On at least one occasion, Budget Family Moving advertised to transport household goods without first having obtained a household goods carrier permit from the Commission, in violation of RCW 81.80.075.
6. (6) Budget Family Moving should be directed to cease and desist from household goods transportation over public roads in Washington as required by RCW 81.04.510.
7. (7) Budget Family Moving should be penalized $5,000 for two violations of RCW 81.80.075, a $4,500 portion of which should be suspended for a period of two years, and then waived, provided the Company refrains from operating as a household goods carrier without first obtaining the required permit from the Commission. The remaining $500 portion of the penalty should be due and payable within ten days from the effective date of this order.

**ORDER**

THE COMMISSION ORDERS:

1. (1) Dexter Petrie and Dexter Wendler d/b/a Budget Family Moving are classified as a common carrier of household goods within the state of Washington.
2. (2) Dexter Petrie and Dexter Wendler d/b/a Budget Family Moving are ordered to immediately cease and desist operations as a household goods carrier within the state of Washington without first obtaining a permit from the Commission.
3. (3) Dexter Petrie and Dexter Wendler d/b/a Budget Family Moving are assessed a penalty of $5,000. A $4,500 portion of the penalty is suspended for a period of two years from the date of this Initial Order, and waived thereafter, provided Dexter Petrie and Dexter Wendler d/b/a Budget Family Moving refrain permanently from further operations as a household goods carrier in the state of Washington without first obtaining the required permit from the Commission.

1. (4) Dexter Petrie, Dexter Wendler, and Budget Family Moving are jointly and severally liable for, and required to pay within ten days after the effective date of this Order, the remaining $500 portion of the penalty.
2. (5) 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 November 19, 2015.

 WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

 RAYNE PEARSON

Administrative Law Judge

**NOTICE TO THE 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*. Section (3) of the rule identifies what you must include in any petition as well as other requirements for a petition. 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 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), as amended in the 2006 legislative session, 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.

You must serve on each party of record one copy of any Petition or Answer filed with the commission, including proof of service as required by WAC 480-07-150(8) and (9). To file a Petition or Answer with the Commission, you must file an original and **two (2)** copies of your Petition or Answer by mail delivery to:

Attn: Steven V. King, Executive Director and Secretary

Washington Utilities and Transportation Commission

P.O. Box 47250

Olympia, Washington 98504-7250

1. The maximum penalty for each of these violations is $5,000 under RCW 81.80.075(4). [↑](#footnote-ref-1)
2. In adjudications the Commission’s regulatory staff participates like any other party, while an administrative law judge or the Commissioners make the decision. To assure fairness, the Commissioners and the presiding administrative law judge do not discuss the merits of the proceeding with regulatory staff or any other party without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455*.* [↑](#footnote-ref-2)
3. Under RCW 81.80.075, if Respondent engages in business as a household goods carrier in violation of a cease and desist order entered by the Commission, Respondent is subject to a penalty of up to $10,000 per violation. Each day of illegal operations may be considered a separate violation. [↑](#footnote-ref-3)