

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET TV-171005
IRON MAN MOVERS AND STORAGE INC.	ORDER 02
in the amount of \$42,800	SUSPENDING PENALTIES; GRANTING PAYMENT ARRANGEMENT

**BACKGROUND**

- 1 On October 10, 2017, the Washington Utilities and Transportation Commission (Commission) assessed a \$42,800 penalty (Penalty Assessment) against Iron Man Movers and Storage Inc. (Iron Man Movers or Company) for 432 violations of Chapter 480-15 Washington Administrative Code (WAC), which adopts by reference sections of Title 49 Code of Federal Regulations (C.F.R.).<sup>1</sup> The Penalty Assessment includes an \$11,400 penalty for 114 violations of WAC 480-15-550 related to cargo insurance coverage;<sup>2</sup> a \$30,500 penalty for 305 violations of 49 C.F.R. Part 391.45(a) related to driver medical certification; a \$400 penalty for four violations of WAC 480-15-555 related to criminal background checks; a \$100 penalty for one violation of 49 C.F.R. Part 393.209(b) related to steering wheel lash; a \$100 penalty for five violations of 49 C.F.R. Part 396.17(a) related to vehicle inspections; and a \$300 penalty for three violations of 49 C.F.R. Part 396.11(a) related to driver vehicle inspection reports.
- 2 On October 18, 2017, the Company responded to the Penalty Assessment, requesting a hearing to present evidence supporting its request for mitigation of the penalty. In its response, the Company acknowledged it lacked the required cargo insurance coverage, but asserted its insurance carrier was at fault for dropping the cargo portion of its policy.

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<sup>1</sup> WAC 480-15-560 and 570 adopt by reference sections of Title 49 C.F.R. Accordingly, Commission safety regulations with parallel federal rules are hereinafter referenced only by the applicable provision of 49 C.F.R.

<sup>2</sup> The Penalty Assessment cites 114 violations of 49 C.F.R. Part 387.7(a). That rule, however, references the minimum levels of insurance set out in 49 C.F.R. Part 387.9, which applies only to interstate carriers. WAC 480-15-550 sets minimum levels of required cargo insurance for household goods carriers regulated by the Commission. Accordingly, we amend the Penalty Assessment, by this Order, to correctly reference WAC 480-15-550 for violations related to the Company's failure to maintain required minimum levels of cargo insurance.

The Company did not address the other violations in its response. On October 26, 2017, Commission staff (Staff) filed a response recommending the Commission grant the Company's request for mitigation, in part.

- 3 On November 8, 2017, the Commission entered Order 01, Granting Mitigation to \$37,100 (Order 01). Order 01 granted Iron Man Movers mitigation of the penalty to \$37,100, and required that the Company either pay the penalty or file jointly with Staff a proposed payment arrangement by November 18, 2017. The Company did not pay the penalty or request a payment arrangement by the due date. The Company, however, filed updates on the actions it took to remedy some of the violations.
- 4 On January 12, 2018, Staff filed a letter in this docket recommending the Commission suspend a portion of the penalty assessed in Order 01 and approve a payment arrangement. Staff states in its letter that the Company contacted Staff on December 30, 2017, and explained that it was already paying \$500 per month under a payment arrangement in a separate docket (TV 170205). The Company offered to pay towards this docket \$500 per month for 18 months, and then \$1000 per month for 28 months until the penalty is paid in full.
- 5 Staff recommends that the Commission suspend \$25,100 of the \$37,100 penalty for a period of 2 years and then waive it, subject to the Company paying the \$12,000 unsuspended portion of the penalty in 24 timely payments of \$500 per month. Staff also recommends that if the Company misses any payment, the entire balance and the suspended penalty should be immediately due and payable. Staff reasons that the purpose of the Commission's enforcement program is to encourage voluntary compliance with the regulations without creating undue financial hardship for a Company. Staff notes that it is uncommon for the Commission to recommend multiple penalties against the same company within a few months, and that Staff did not consider the sum of the two penalties in its previous penalty recommendation. Staff states that the sum of the penalties in these two dockets is substantial relative to the Company's annual revenues and could create undue hardship for the Company.

### **DISCUSSION**

- 6 We agree with Staff's recommendation to suspend a \$25,100 portion of the \$37,100 penalty imposed in Order 01, on the condition that the Company pay the unsuspended portion of the penalty in 24 timely monthly payments. The Commission's ultimate goal in any enforcement proceeding is to obtain compliance, not create an unsurmountable financial burden for a Company. We find that the suspending a portion of penalty

imposed in Order 01 under the conditions Staff suggests above better supports that goal. We also find that the installment payment schedule proposed by Staff is reasonable.

- 7 The Commission approves the proposal to suspend \$25,100 of the \$37,100 penalty imposed in Order 01 for a period of 2 years, and then waive it, subject to the condition that the Company pays the unsuspended portion of the penalty according to the following schedule and in the following amounts:

March 7, 2018	\$500
April 6, 2018	\$500
May 7, 2018	\$500
June 7, 2018	\$500
July 9, 2018	\$500
August 7, 2018	\$500
September 10, 2018	\$500
October 5, 2018	\$500
November 7, 2018	\$500
December 7, 2018	\$500
January 7, 2019	\$500
February 7, 2019	\$500
March 7, 2019	\$500
April 5, 2019	\$500
May 7, 2019	\$500
June 7, 2019	\$500
July 8, 2019	\$500
August 7, 2019	\$500
September 9, 2019	\$500
October 7, 2019	\$500
November 7, 2019	\$500
December 9, 2019	\$500
January 7, 2020	\$500
February 7, 2020	\$500

If the Company fails to make any monthly payment by 5pm on the due date, above, the entire balance and the suspended penalty will become immediately due and payable without further Commission order.

**ORDER**

THE COMMISSION ORDERS THAT:

- 8 (1) The Commission suspends a \$25,100 portion of the penalty imposed in Order 01 for a period of two years, and then waives it, subject to the condition that Iron Man Movers and Storage Inc. pays the \$12,000 unsuspended portion of the penalty in installments according to the schedule set out in paragraph 7.
- 9 (2) If Iron Man Movers and Storage Inc. fails to pay any installment by 5pm on the date it is due, the entire balance of the penalty including the \$25,100 suspended portion will become due immediately due and payable without further action by the Commission.
- 10 (3) Iron Man Movers and Storage Inc. may make additional payments in advance of the payment due dates or pay an increased amount on the due dates, but no additional payment or increased amount will relieve the Company of its obligation to make timely monthly installments until the full amount is satisfied.

DATED at Olympia, Washington, and effective January 26, 2018.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

STEVEN V. KING  
Executive Director and Secretary

**NOTICE TO PARTIES: This is an order delegated to the Executive Secretary for decision. As authorized in WAC 480-07-904(3), you must file any request for Commission review of this order no later than 14 days after the date the decision is posted on the Commission's website.**